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ENDORSED
FILED
ALAMEDA COUNTY

MAR 12 2014

CLERK OF THE SUPERIOR COURT
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

RG 14717081

GUADALUPE SALAZAR, GENOVEVA
LOPEZ, and JUDITH ZARATE, on behalf of
themselves and all others similarly situated,

CASE NO.

Unlimited Civil Case

Plaintiffs,

CLASS ACTION COMPLAINT

vs.

MCDONALD'S CORP., a corporation,
MCDONALD'S U.S.A., LLC, a limited
liability company, MCDONALD'S
RESTAURANTS OF CALIFORNIA, INC., a
corporation, BOBBY O. HAYNES AND
CAROLE R. HAYNES FAMILY LIMITED
PARTNERSHIP d/b/a MCDONALD'S, a
limited partnership, and DOES 1 through 100,
inclusive,

1. Failure to Pay All Wages When Due
2. Failure to Pay Overtime Wages
3. Failure to Pay Minimum Wages
4. Failure to Provide Required Meal Periods
or Pay Missed Meal Period Wages
5. Failure to Provide Required Rest Breaks or
Pay Missed Rest Break Wages
6. Failure to Maintain Required Records
7. Failure to Furnish Accurate Itemized Wage
Statements
8. Failure to Indemnify Employees for
Necessary Expenses
9. Negligence
10. California Labor Code Private Attorneys
General Act
11. Unfair and Unlawful Business Practices
12. Declaratory Judgment
13. Retaliation

Defendants.

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. This is a class action brought under California law by three individuals who are
3 employed as crew members in McDonald's fast-food restaurants in Northern California operated by
4 Defendant Bobby O. Haynes Sr. and Carole R. Haynes Partnership Limited Partnership, d/b/a
5 McDonald's (along with Doe defendants 51 through 100, hereinafter "Haynes Partnership") as
6 franchisee of Defendants McDonald's Restaurants of California, Inc., McDonald's U.S.A., LLC,
7 and McDonald's Corporation (along with Doe defendants 1 through 50, collectively hereinafter
8 "McDonald's"). Plaintiffs Guadalupe Salazar, Genoveva Lopez, and Judith Zarate bring this action
9 on behalf of themselves and others similarly situated to recover the wages that Defendants
10 unlawfully failed to pay them in violation of California law.

11 2. Plaintiffs Salazar, Lopez and Zarate are low-wage crew members working at the
12 franchised McDonald's restaurants in Oakland, California that are operated by Haynes Partnership.
13 Plaintiffs each struggle to support themselves and their families with the subsistence wages they
14 earn from Defendants, and their ability to pay for the most basic necessities of life is reduced even
15 further by Defendants' failure to pay what the law requires, as alleged herein.

16 3. By contrast, McDonald's is a multi-billion dollar business. On information and
17 belief, it operates more than 35,000 restaurants globally, including approximately 1,300 restaurants
18 in California. McDonald's and Haynes Partnership share legal responsibility for the wage theft and
19 other violations of the crew members' legal rights at the McDonald's-franchised restaurants
20 operated by Haynes Partnership in California.

21 4. Plaintiffs, like their crew member co-workers whom Defendants also employed
22 during the applicable limitations period, spend or spent their workdays at McDonald's restaurants
23 filling orders, preparing and cooking food, cleaning the restaurant, and serving customers under
24 strictly regimented and pressured circumstances. That pressure results in significant part from
25 McDonald's insistence that its franchisees like Defendant Haynes Partnership must strictly monitor,
26 control, and curtail labor costs, which Defendants accomplish by not paying for all hours worked,
27 not paying overtime premiums for all overtime hours, not paying the required extra hour for missed
28 meal periods and rest breaks, and by using other unlawful stratagems to comply with McDonald's

1 requirement that labor costs at its franchised restaurants may not exceed a designated, and
2 artificially low, percentage of the restaurant's gross sales. Compounding this pressure is
3 McDonald's insistence that its franchised restaurants must also meet McDonald's strict
4 labor-intensive expectations for operational procedure and speed of service.

5 5. Although McDonald's has entered into a Franchise Agreement with Haynes
6 Partnership that, on information and belief, purports to delegate responsibility for restaurant
7 operations and for control over employees to Haynes Partnership, Haynes Partnership operates its
8 franchised restaurants as an agent of McDonald's. At all relevant times McDonald's has directed
9 and controlled the restaurants' operations, including by controlling the material terms and
10 conditions of employment of Plaintiffs and all other similarly situated crew members.

11 6. Despite McDonald's vast revenues and multi-billion dollar annual profits,
12 Defendants pay or paid Plaintiffs and other crew members only the minimum wage or slightly more
13 than the minimum wage. Indeed, according to published reports, due to the low wages McDonald's
14 pays employees, the government is required to spend approximately \$1.2 billion annually on
15 McDonald's employees in anti-poverty program aid, including Supplemental Nutrition Assistance
16 Program ("food stamps") and Temporary Assistance for Needy Families. Defendants then reduce
17 Plaintiffs' and crew members' ability to earn even the bare minimum reflected in their low wage
18 rates by engaging in a variety of forms of unlawful wage theft, including but not limited to: altering
19 or condoning the alteration of time records to avoid paying Plaintiffs and other crew members for
20 time they work and for overtime premiums they earn; requiring, suffering, or permitting Plaintiffs
21 and other crew members to work off the clock without compensation; failing to pay legally required
22 additional wages when Defendants fail to provide Plaintiffs and crew members with full and timely
23 meal periods and rest breaks; and failing to indemnify Plaintiffs and other crew members for
24 necessary business expenses they incur in the discharge of their duties as required by California law.

25 7. Plaintiffs seek compensatory, statutory, declaratory, and injunctive relief for
26 themselves and the class of all current and former crew member employees of McDonald's
27 restaurants operated by Haynes Partnership in California during the applicable limitations period
28 ("Class Members"), to compensate these workers for the unpaid and underpaid wages that

1 Defendants Haynes Partnership and McDonald's have stolen from them and to protect current and
2 future McDonald's workers from being subjected to similar wage theft and otherwise unlawful
3 working conditions by this multi-billion dollar business.

4 **PARTIES**

5 8. Plaintiff GUADALUPE SALAZAR is a fast-food restaurant worker who has been
6 employed by Defendants as a crew member at the McDonald's restaurant located at 7300 Bancroft
7 in Oakland, California, from approximately June 2012 through the present. Ms. Salazar is a resident
8 of Oakland, California. Her wage rate is the California minimum wage, \$8.00 per hour.

9 9. Plaintiff GENOVEVA LOPEZ is a fast-food restaurant worker who has been
10 employed by Defendants as a crew member at the McDonald's restaurant located at 2520 East 12th
11 Street in Oakland, California, from approximately May 2013 through the present. Ms. Lopez is a
12 resident of Oakland, California. Her wage rate is \$8.55 per hour.

13 10. Plaintiff JUDITH ZARATE is a fast-food restaurant worker who has been employed
14 by Defendants as a crew member at the McDonald's restaurant located at 2520 East 12th Street in
15 Oakland, California, from approximately 2003 through the present. Ms. Zarate is a resident of
16 Oakland, California. After eleven years of employment with Defendants, Ms. Zarate's wage rate is
17 just \$9.10 per hour, less than half of what her wage would be if it had been annually adjusted for
18 inflation.

19 11. Each of the Plaintiffs identified immediately above brings this lawsuit on her own
20 behalf, on behalf of all similarly situated current and former McDonald's crew members employed
21 by Defendants at Haynes Partnership-operated restaurants in the State of California, and on behalf
22 of all aggrieved employees and the general public pursuant to California Labor Code §2698 et seq.
23 and California Business & Professions Code §17200 et seq. Plaintiffs bring this class action for
24 injunctive relief and to recover, among other things, wages and penalties from unpaid wages earned
25 and due, including but not limited to unpaid wages for time worked off the clock, unpaid minimum
26 wages, unpaid and illegally calculated overtime compensation, late and missed meal period and rest
27 break wages, wages due to discharged or quitting employees, penalties for failure to maintain
28

1 required records and to provide accurate itemized wage statements, and interest, attorneys' fees,
2 costs, and expenses.

3 12. The proposed class these Plaintiffs seek to represent includes the following similarly
4 situated individuals ("Class Members"): All individuals currently or formerly employed by
5 Defendants as crew members at one or more of Defendant Haynes Partnership's franchised
6 McDonald's restaurants in California ("the Restaurants"), at any time within the period beginning
7 four (4) years prior to the filing of this action and ending at the time this action proceeds to final
8 judgment or settles (the "Class Period"). Plaintiffs reserve the right to name additional class
9 representatives and to identify sub-classes and sub-class representatives as may be necessary and
10 appropriate.

11 13. Plaintiffs are informed and believe, and thereon allege, that Defendant
12 MCDONALD'S CORPORATION is a multinational, multi-billion dollar Delaware corporation,
13 with its principal place of business in Illinois. On information and belief, McDonald's Corporation
14 operates more than 35,000 restaurants globally and in all 50 states, including California. At all
15 relevant times, on information and belief, Defendant McDonald's Corporation has done business in
16 California and committed the unlawful acts alleged in this Complaint.

17 14. Plaintiffs are informed and believe, and thereon allege, that Defendant
18 MCDONALD'S U.S.A., LLC is a multinational, multi-billion dollar Delaware limited liability
19 company with its principal place of business in Illinois, which operates restaurants in all 50 states,
20 including California. On information and belief, Defendant McDonald's U.S.A., LLC is a wholly-
21 owned subsidiary of Defendant McDonald's Corporation. At all relevant times, on information and
22 belief, Defendant McDonald's U.S.A., LLC has done business in California and committed the
23 unlawful acts alleged in this Complaint.

24 15. Plaintiffs are informed and believe, and thereon allege, that Defendant
25 MCDONALD'S RESTAURANTS OF CALIFORNIA, INC. is a California corporation and a
26 wholly-owned subsidiary of McDonald's U.S.A., LLC and/or of McDonald's Corporation, and
27 operates more than 1,300 restaurants in California. At all relevant times, on information and belief,
28

1 Defendant McDonald's Restaurants of California, Inc. has done business in California and
2 committed the unlawful acts alleged in this Complaint.

3 16. Plaintiffs are informed and believe, and thereon allege, that Defendant BOBBY O.
4 HAYNES SR. AND CAROLE R. HAYNES FAMILY LIMITED PARTNERSHIP, d/b/a
5 McDonald's, also known as Bobcar McDonald's, Bobcar Partnership, or Bob Car Management Co.,
6 is a California limited partnership that conducts business in California, principally operating
7 fast-food restaurants and providing restaurant and related services. On information and belief,
8 Bobby O. Haynes Sr. and Carole R. Haynes Partnership Limited Partnership operates fast-food
9 McDonald's restaurants in California pursuant to franchise agreements with McDonald's, including
10 but not limited to restaurants located at 7300 Bancroft and 2520 East 12th Street in Oakland,
11 California, and restaurants at four other locations in Oakland and San Leandro, California.

12 17. On information and belief, Defendant Bobby O. Haynes Sr. and Carole R. Haynes
13 Partnership Limited Partnership is owned and operated by Bobby O. Haynes, Sr.

14 18. The true names and capacities of DOES 1 through 100, inclusive, are unknown to
15 Plaintiffs at this time, and Plaintiffs therefore sue such DOE Defendants under fictitious names.
16 Plaintiffs are informed and believe, and thereon allege, that each Defendant designated as a DOE is
17 in some manner responsible for the occurrences alleged herein, and that Plaintiffs' and Class
18 Members' injuries and damages, as alleged herein, were proximately caused by the conduct of such
19 DOE Defendants. Plaintiffs will seek leave of the court to amend this Complaint to allege the true
20 names and capacities of such DOE Defendants when ascertained.

21 19. Defendants MCDONALD'S CORPORATION, MCDONALD'S U.S.A., LLC,
22 MCDONALD'S RESTAURANTS OF CALIFORNIA, INC., and DOES 1 through 50, inclusive,
23 are collectively referred to herein as "McDonald's."

24 20. Defendants BOBBY O. HAYNES AND CAROLE R. HAYNES FAMILY LIMITED
25 PARTNERSHIP and DOES 51 through 100, inclusive, are collectively referred to herein as "Haynes
26 Partnership."
27
28

21. Defendants Haynes Partnership and McDonald's at all relevant times have been employers covered by the California Labor Code and California Industrial Welfare Commission ("IWC") Wage Order 5-2001.

JURISDICTION AND VENUE

22. The Superior Court of the State of California has jurisdiction in this matter because Defendants McDonald's and Haynes Partnership regularly conduct business in California. No federal question is at issue because the claims are based solely on California law.

23. Venue is proper in this judicial district and the County of Alameda, California because Plaintiffs Salazar, Lopez, Zarate, and other persons similarly situated performed and continue to perform work for Defendants in the County of Alameda, Defendants maintain offices and facilities and transact business in the County of Alameda, and Defendants' illegal wage theft policies and practices that are the subject of this action were applied, and continue to be applied, at least in part, to Plaintiffs and other persons similarly situated in the County of Alameda.

GENERAL FACTUAL ALLEGATIONS

24. McDonald's contracts with, on information and belief, approximately 300 franchisees that operate McDonald's restaurants in California.

25. Defendant Haynes Partnership, d/b/a McDonald's, is a McDonald's franchisee that operates, on information and belief, at least six McDonald's restaurants in Alameda County, California (hereinafter "Restaurants").

26. Plaintiffs Salazar, Lopez, and Zarate are McDonald's crew members who performed and continue to perform work in the Restaurants owned and operated by Defendants Haynes Partnership and McDonald's. Plaintiffs seek relief from Defendants' policies and practices of denying Plaintiffs and Class Members wages and compensation owed under California law.

27. Haynes Partnership and McDonald's jointly operate the Restaurants and tightly control and monitor the working conditions of Plaintiffs and Class Members, including but not limited to controlling and monitoring the job duties performed by crew members, the hours worked by crew members, and the rate of service provided by crew members in the Restaurants.

1 28. Defendants have a policy and practice of engaging in comprehensive classwide
2 measures to curtail labor costs and to limit labor costs to a defined percentage of sales revenues,
3 even when complying with McDonald's requirement of maintaining such a low ratio labor costs to
4 total sales results in violations of Plaintiffs' and Class Members' workplace rights under California
5 law.

6 29. Defendants reduce the labor costs in the Restaurants not only by paying low wages to
7 Plaintiffs and Class Members, but also by maintaining, encouraging, and approving policies and
8 practices that have the purpose and effect of depriving Plaintiffs and Class Members of their full and
9 timely wages when due.

10 30. As a result of the policies and practices described below, work time that Plaintiffs
11 and Class Members perform is routinely not recorded by Defendants on Plaintiffs' and Class
12 Members' pay stubs, and Defendants have failed and continue to fail to compensate Plaintiffs and
13 Class Members for all wages due to them and for missed, late, and shortened rest breaks and meal
14 periods, as required by California law.

15 **A. Plaintiffs' Work as McDonald's Crew Members**

16 31. In each of the Restaurants, low-wage crew members including Plaintiffs perform and
17 have performed a variety of duties, including but not limited to working as cashiers, taking food
18 orders from customers at the counter and at the drive-through, serving food to customers, stocking
19 supplies, preparing and cooking food, and cleaning the restaurant.

20 32. Plaintiffs and Class Members applied to work and were hired to perform work in the
21 Restaurants by making applications through McDonald's on-line application form, "Hiring to Win,"
22 and by submitting applications to managers in the Restaurants. For example, Plaintiffs Salazar and
23 Lopez applied through McDonald's on-line application form.

24 33. Plaintiffs and Class Members work and have worked a variety of scheduled shifts in
25 the Restaurants, including but not limited to shifts as short as three hours and as long as 10 hours.

26 34. Plaintiffs and Class Members are directly supervised in the Restaurants by managers,
27 including a store manager and shift managers. These managers inform crew members of their work
28 assignments and work schedules, and instruct crew members as to when they may take breaks. No

1 Plaintiff or crew member is permitted to take any meal period or rest break unless and until a
2 manager expressly instructs the worker to take that specific break. These managers, at the direction
3 of others at both Haynes Partnership and McDonald's, closely monitor and take steps to control
4 labor costs in the Restaurants throughout the workday.

5 **B. Defendants' Wage Theft**

6 Alteration of Time Records

7 35. Defendant Haynes Partnership is required by McDonald's to use and does in fact use
8 a computer hardware and software system including a point-of-sale ("POS") system (referred to
9 collectively hereinafter as "computer system") in the Restaurants that is designed and maintained by
10 McDonald's to enable Haynes Partnership and McDonald's to closely monitor data about labor and
11 sales in the Restaurants. Among other things, the computer system collects real-time information
12 regarding each employee's hours, including punch-in and punch-out times, and pay rates.

13 36. Plaintiffs and Class Members are required to punch in at the beginning of their shift
14 and to punch out at the end of their shift. They are also required to punch out at the beginning of
15 each meal period and rest break and to punch back in at the end of each meal period and rest break.

16 37. McDonald's computer system tracks Plaintiffs' and Class Members' punch-in and
17 punch-out times.

18 38. Plaintiffs are informed and believe, and thereon allege, that:

- 19 a. McDonald's computer system indicates to restaurant managers when a crew
20 member's punch-in and punch-out times entitle that crew member to premium pay
21 for overtime hours worked, and when a crew member has not received a full or
22 timely rest break or meal period.
- 23 b. Restaurant managers are able to, and routinely do, alter the punch-in and punch-out
24 times of crew members in McDonald's computer system. For example, Plaintiffs
25 have received paychecks showing fewer hours than they were punched in and worked
26 because, on information and belief, managers altered their punch records.
- 27 c. Restaurant managers engage in a policy and practice of altering the punch-in and
28 punch-out times of crew members in order to change time entries that demonstrate

1 when those crew members did not receive a legally required meal period or rest break
2 and in order to eliminate time that crew members worked past the end of their
3 scheduled shifts and/or time that would be subject to overtime pay requirements.

4 d. Defendants engage in a practice of managerial alteration of time records as a means
5 of reducing their crew members' hours as reflected in McDonald's computer system.

6 e. McDonald's computer system records and retains records of all alterations to crew
7 members' punch-in and punch-out times.

8 f. Defendants are aware of, condone, ratify, and intentionally accept the benefits of
9 their practice and policy of altering Plaintiffs' and Class Members' time records in a
10 manner designed to under-report and under-pay the time actually worked by
11 Plaintiffs and Class Members.

12 Off-the-Clock Work

13 39. Defendants have required Plaintiffs and Class Members to perform unpaid off-the-
14 clock work in violation of California law.

15 40. Defendants' managers require, suffer, or permit Plaintiffs and Class Members to
16 perform work at times those workers are not punched into McDonald's computer system. For
17 example, managers have required, suffered, or permitted Plaintiff Salazar to work before punching
18 in when she arrived before her shift was scheduled to start. Such time worked is not recorded in
19 McDonald's computer system and is not compensated.

20 41. Plaintiffs are informed and believe, and thereon allege, that Defendants have a policy
21 and practice of requiring crew members to engage in off-the-clock work in order to maintain low
22 "labor" cost numbers in the McDonald's computer system and to avoid recording overtime hours.

23 42. All of the unpaid work that Defendants required, suffered, or permitted Plaintiffs
24 and Class Members to perform has benefitted Defendants, enabling them to increase profits at the
25 workers' expense and to keep labor costs lower, both in absolute terms and as a percentage of sales.

26 Missed, Late and Shortened Meal Periods and Rest Breaks

27 43. Defendants engage in a policy and practice of providing rest breaks and meal periods
28 to Plaintiffs and Class Members in such a manner that Plaintiffs and crew members have not and do

1 not receive timely and full rest breaks and meal periods. Defendants fail to pay required additional
2 wages when Plaintiffs and Class Members are not provided timely and full rest breaks and meal
3 periods.

4 44. Restaurant managers determine when Plaintiffs and Class Members may take rest
5 breaks and meal periods. With rare exception, Plaintiffs and Class Members are not permitted to
6 take a rest break or meal period without first being specifically instructed by a manager that they
7 must go on break.

8 45. Defendants have a policy and practice of not permitting Plaintiffs and Class
9 Members to take rest breaks and meal periods when the Restaurants are busy.

10 46. Plaintiffs are informed and believe, and thereon allege, that Defendants have a policy
11 and practice of not permitting Plaintiffs and Class Members to take rest breaks and meal periods
12 when a store inspection from a Mystery Shopper is expected. As described in paragraph 82 below, a
13 Mystery Shopper is an agent of McDonald's who routinely visits McDonald's restaurants to
14 evaluate the service he or she receives. Plaintiffs are informed and believe, and thereon allege, that
15 the Restaurants' managers are aware of the time period during which such Mystery Shopper visits
16 will occur. Defendants have a policy and practice of not permitting Plaintiffs and Class Members to
17 take rest breaks or meal periods during that period, which may be a two- or three-hour time period.
18 For example, Defendants' managers have told Plaintiff Salazar not to take rest breaks or meal
19 periods when a Mystery Shopper may visit. Defendants' managers have also told Plaintiff Lopez
20 that she may not go on rest breaks or meal periods during corporate inspections.

21 47. Because of the policies and practices described above, Defendants regularly fail to
22 provide Plaintiffs and other crew members with a full 30-minute meal period beginning within the
23 first five hours of work. For example, Plaintiffs Salazar and Lopez have regularly worked five or
24 more hours before receiving a duty-free 30-minute meal period.

25 48. Defendants have a policy and practice of providing Plaintiffs and Class Members
26 with rest breaks that are provided earlier or later than legally required, including by not providing
27 Plaintiffs and Class Members with their first ten-minute rest break until more than 3-1/2 hours of
28 work, and by requiring Plaintiffs and Class Members to take their rest break near or at the beginning

1 of their shift, even when it is reasonably practicable to provide the required break near or at the
2 middle of the shift. For example, Plaintiffs Lopez and Zarate have often not been permitted to take
3 a rest break until after they have worked four or more hours, and Plaintiff Salazar has been required
4 to take a rest break at the very beginning of her shift.

5 49. Defendants have a policy and practice of requiring Plaintiffs and Class Members,
6 when they work shifts that entitle them to a second ten-minute rest break, to take their second ten-
7 minute rest break toward the end or at the very end of their shift, or to not take a second break at all.
8 For example, managers have required Plaintiffs to take their second rest break on shifts lasting six
9 hours or longer near or at the end of their shifts, or have denied them a second rest break altogether.

10 50. Defendants have a policy and practice of requiring Plaintiffs and Class Members,
11 when they work shifts that entitle them to a second ten-minute rest break, to combine their first or
12 second ten-minute rest break with their thirty-minute meal period, even when it is reasonably
13 practicable to provide the required rest break near or at the middle of the shift. For example,
14 Plaintiff Lopez has been required to combine her ten-minute rest break and thirty-minute meal
15 period despite it being reasonably practicable to take them separately.

16 51. Plaintiffs are informed and believe, and thereon allege, that Defendants require
17 Plaintiffs and Class Members to take late rest breaks and meal periods and to combine rest breaks
18 and meal periods in order to minimize the need to schedule coverage for crew members who are on
19 breaks and to keep labor costs artificially and unlawfully low.

20 52. Defendants have a policy and practice of providing Plaintiffs and Class Members
21 with rest breaks that are less than ten minutes in length.

22 53. Plaintiffs are informed and believe, and thereon allege, that Restaurant managers
23 have a practice of adjusting the punch records of Plaintiffs and Class Members to show that they
24 received full and timely ten-minute rest breaks and full and timely thirty-minute meal periods when
25 they did not.

26 54. Even though Defendants' time records generally record the exact times of crew
27 member breaks (subject to the problems discussed in paragraphs 35-38), thus providing Defendants
28 with full knowledge of when Plaintiffs and Class Members are not receiving meal periods and rest

1 breaks in compliance with California law, Defendants have a policy and practice of failing to pay
2 Plaintiffs and Class Members one hour of additional pay at their regular rate for each day in which
3 they are not provided a rest break or meal period for the reasons discussed in paragraphs 43-53 or
4 for any other reason.

5 Failure to Pay Overtime Rates

6 55. Plaintiffs and Class Members regularly have not received premium pay for the time
7 they work in excess of eight hours per day and 40 hours per week. For example, Plaintiffs Salazar
8 and Zarate have worked more than eight hours in a day and not been paid overtime.

9 56. Plaintiffs are informed and believe, and thereon allege, that Restaurant managers
10 have a policy and practice of altering crew members' recorded hours in the McDonald's computer
11 system to eliminate overtime hours from the time records and/or to move to a different date or
12 otherwise alter overtime hours so that the hours are treated as not subject to overtime premium pay.

13 57. Plaintiffs are informed and believe, and thereon allege, that the McDonald's
14 computer system alerts Restaurant managers when a crew member's recorded punch-in and punch-
15 out times entitle the crew member to overtime and notifies the managers that this is an "overtime
16 violation."

17 Failure to Keep Accurate Records and Provide Accurate Itemized Wage Statements

18 58. As a result of the policies and practices described above, Defendants do not keep
19 accurate records of, or provide Plaintiffs and Class Members accurate itemized wage statements
20 reflecting, all time that Plaintiffs and Class Members work or the proper wage rates, including but
21 not limited to overtime rates, applicable to all hours that Plaintiffs and Class Members work.

22 59. The pay stubs and itemized wage statements provided to Plaintiffs and Class
23 Members are not accurate because they fail to identify McDonald's as a joint employer of Plaintiffs
24 and Class Members.

25 Failure to Indemnify Employees for Necessary Expenses

26 60. When crew members working as cashiers show a cash shortage at the end of their
27 shifts, Defendants have required them, including Plaintiff Salazar, to make up the shortage with
28

1 their own money without showing that the shortage was the result of the crew members' gross
2 negligence or willful or intentional act.

3 Retaliation

4 61. After Plaintiff Salazar complained to an owner of Haynes Partnership that her pay
5 check did not show all the hours she worked, her manager retaliated against her by reducing her
6 hours, scheduling her to work on days she could not work, denying her requested vacation days
7 denied, harassing her in the restaurant, and otherwise. Her manager also threatened her with
8 termination and told her not to report pay check problems to the owners again.

9 **C. McDonald's System and the McDonald's Franchise**

10 62. McDonald's operates, franchises, and services a system of restaurants that prepare,
11 assemble, package, and sell a limited menu of value-priced foods under the McDonald's System.
12 The McDonald's System is a concept of restaurant operations that includes, among other things,
13 certain rights in trademarks, real estate, marketing, and operational information designed to promote
14 uniformity of operations.

15 63. The key to McDonald's success, according to its own internal and publicly filed
16 documents, is "branding" – developing and maintaining customer trust in the McDonald's brand, so
17 whether that customer is in a restaurant owned and operated by McDonald's directly or owned and
18 operated by a franchisee, and whether the customer is in a restaurant in his or her hometown, a
19 neighboring state, or a foreign country far away, the customer will know what to expect from the
20 McDonald's experience, including what to expect from McDonald's crew member interactions.

21 64. Plaintiffs are informed and believe, and thereon allege, that globally, approximately
22 7,000 McDonald's restaurants are owned and operated directly by McDonald's, and approximately
23 28,000 are owned and operated by McDonald's franchisees, companies like Defendant Haynes
24 Partnership.

25 65. Plaintiffs are informed and believe, and thereon allege, that McDonald's has a
26 franchise agreement with Haynes Partnership that requires Haynes Partnership to strictly adhere to
27 the McDonald's System, including, *inter alia*, by complying with all standards, business policies,
28

1 practices and procedures prescribed by McDonald's; using formulas, methods and policies relating
2 to operations, inventory, accounting, management, and advertising that are set forth in detailed
3 manuals developed and provided by McDonald's; using corporate-supplied or -approved equipment
4 and food products; submitting to regular comprehensive site inspections and computer monitoring;
5 and sharing a percentage of gross sales revenues with McDonald's.

6 66. As detailed in paragraphs 74 through 137 below, McDonald's franchise agreements,
7 including on information and belief, the franchise agreement McDonald's maintains with Haynes
8 Partnership, vest in McDonald's significant control over restaurant operations, working conditions,
9 personnel training, and the finances of franchisees' restaurants, and give McDonald's unlimited and
10 unrestricted authority to inspect restaurants to monitor workplace conditions, including labor
11 conditions, and to ensure compliance with the standards and policies of McDonald's.

12 67. McDonald's maintains national franchise standards to which all of its franchisees are
13 expected and required to adhere, and that affect almost every aspect of the restaurants' functioning,
14 including practices and policies affecting crew members' labor conditions. Plaintiffs are informed
15 and believe, and on this basis allege, that Defendant Haynes Partnership is subject to these national
16 franchise standards.

17 68. McDonald's requires all of its franchisees to use only those goods, services, supplies,
18 fixtures, equipment, inventory, and computer hardware that meet the specifications, requirements,
19 and standards that McDonald's has formulated for use in the McDonald's System.

20 69. Pursuant to the standard McDonald's franchise agreement, a franchisee may not
21 assign its contractual commitment to another party.

22 70. McDonald's evaluates and grades all franchisees on whether they have satisfied its
23 franchise standards, including standards governing the recruitment, development, training and
24 retention of qualified personnel.

25 71. McDonald's franchise agreements are for fixed term periods, usually 20 years, and
26 do not grant franchisees an automatic renewal option. If a franchise agreement is not renewed, all
27 ownership rights in the franchised restaurant or restaurants covered by that agreement revert in full
28 to McDonald's.

1 72. Plaintiffs are informed and believe, and on this basis allege, that McDonald's
2 exercises significant control over the finances of franchisees, including the finances of Defendant
3 Haynes Partnership, including in the following ways:

- 4 a. McDonald's franchise agreements entitle McDonald's to receive a percentage of all
5 franchisees' gross sales revenue;
- 6 b. McDonald's expects all franchisees to earn a specified profit on a monthly basis;
- 7 c. McDonald's requires all franchisees to purchase food from McDonald's-approved
8 vendors;
- 9 d. McDonald's requires all franchisees to pay a service fee based on a percentage of
10 each restaurant's sales;
- 11 e. McDonald's requires all franchisees to pay rent for use of the restaurant property or
12 premises on which the franchisee-operated restaurants are located;
- 13 f. McDonald's mandates promotional pricing of products sold in all franchisee-
14 operated restaurants, which may sometimes require selling already low-margin
15 products at a loss;
- 16 g. McDonald's encourages all franchisees to renovate restaurants and may condition
17 renewal of a franchise agreement on the franchisee's commitment to renovate;
- 18 h. McDonald's requires all franchisees to use computer software that tracks financial
19 information of the franchisees' restaurants, including sales, inventory and labor costs;
- 20 i. McDonald's requires all franchisees to submit financial data to McDonald's, while
21 maintaining its own independent access to the franchise's financial data; and
- 22 j. McDonald's establishes rules for the maintenance of all franchisees' accounting
23 books and records.

24 73. McDonald's significantly restricts the business autonomy of its franchisees and their
25 ability to make independent decisions based upon their own assessment of what is best for their
26 particular business, by instead requiring compliance with the myriad standards it imposes on all its
27 franchisee-owned restaurants as well as upon its own corporate-owned restaurants.

1 **D. McDonald's Exercises Control Over Haynes Partnership' Operations, Policies,**
2 **Procedures and Personnel**

3 McDonald's Oversees, Evaluates and Controls the Restaurants' Operations
4 Through the Use of Business Consultants and Other Agents

5 74. After three consecutive years of declining stock price and slumping consumer
6 satisfaction, McDonald's instituted a "Plan to Win" program in the early 2000's, which was a
7 worldwide program designed to update, improve, and reinforce the company's brand. One of the
8 elements of this program was "People." McDonald's "People" program focused on the supervision
9 and training of McDonald's employees in all restaurants, whether corporate- or franchisee-owned,
10 and was designed to overcome concerns that negative customer experiences with service received at
11 McDonald's restaurants – regardless of ownership – were having a negative impact on the corporate
12 brand.

13 75. Plaintiffs are informed and believe, and thereon allege, that Defendant McDonald's
14 "Plan to Win" continues to provide the common operational framework for all McDonald's
15 restaurants, including the Restaurants operated by Defendant Haynes Partnership.

16 76. Plaintiffs are informed and believe, and thereon allege, that in implementing the
17 "Plan to Win," McDonald's has paired each franchisee, including Defendant Haynes Partnership,
18 with a particular business consultant or consultants employed by McDonald's. The principal
19 responsibility of the McDonald's consultant in this paired relationship is to ensure that the
20 franchisee fully complies with all elements of the corporate strategy for improving restaurant
21 operations, including McDonald's objectives with respect to "People."

22 77. McDonald's exercises substantial control over franchisees' operations, policies,
23 procedures and personnel through its business consultants and other agents, who conduct regular
24 inspections and evaluations of the franchisee restaurants.

25 78. Plaintiffs are informed and believe, and thereon allege, that a McDonald's business
26 consultant is assigned to Haynes Partnership and conducts regular inspections and evaluations of the
27 Restaurants.

28 79. McDonald's evaluates the operations of all of its franchisees in the categories of
quality, service, cleanliness, and people. As part of this evaluation, McDonald's business

1 consultants conduct a detailed top-to-bottom assessment of all aspects of franchisees' store
2 operations designed to ensure compliance with McDonald's corporate standards, processes,
3 practices and documentation, assigning a score for each aspect of the review.

4 80. Plaintiffs are informed and believe, and thereon allege, that McDonald's business
5 consultants, including the business consultant assigned to Haynes Partnership, evaluate and provide
6 feedback to franchisees on numerous separate restaurant "systems" that McDonald's imposes on its
7 corporate-owned and franchisee-owned restaurants alike. As part of this process, on information
8 and belief, McDonald's consultants review the franchisee on numerous topics, including:

- 9 a. Recruitment and training of crew members and managers, including the amount of
10 McDonald's-conducted training employees have received;
- 11 b. Shift management and crew scheduling;
- 12 c. Compliance with McDonald's operational guidelines and standards on subjects such
13 as food assembly and quality, cleanliness, human resources practices, and crew
14 members' customer interaction;
- 15 d. Placement and use of promotional materials; and
- 16 e. Areas for improved compliance with McDonald's corporate standards and
17 development of action plans to ensure compliance with those standards.

18 81. Plaintiffs are informed and believe, and thereon allege, that McDonald's also
19 subjects each franchisee, including Defendant Haynes Partnership, to a regular series of inspections,
20 announced and unannounced, designed to ensure compliance with all corporate directives, policies,
21 and procedures. Any franchisee that fails to receive a satisfactory score on a consultant's review or
22 assessment is subject to mandatory follow-up inspections by McDonald's to ensure that restaurant
23 operations and compliance are significantly improved in accordance with McDonald's mandatory
24 requirements.

25 82. McDonald's sends agents to the Restaurants as part of its "Mystery Shopper"
26 program, to inspect the facilities, evaluate the speed, efficiency, and quality of the work performed
27 by crew members, and to criticize and require improvement in each instance in which the Mystery
28

1 Shopper identifies a circumstance in which one or more crew members failed to comply fully with
2 the requirements imposed by McDonald's.

3 83. McDonald's relies on the inspections, evaluations and reviews conducted by its
4 business consultants and other agents to control franchisees, including Haynes Partnership.
5 Plaintiffs are informed and believe, and thereon, allege that McDonald's relies these inspections,
6 evaluations, and reviews in deciding whether the franchisee is eligible to renew or "rewrite" its
7 franchisee agreement; whether the franchisee may add new restaurants to its franchise or,
8 alternatively, should lose restaurants; and whether the franchisee is eligible for McDonald's
9 remodel programs.

10 McDonald's Exercises Control Over Haynes Partnership' Hiring, Wages,
11 Discipline and Training of Restaurant Personnel

12 84. McDonald's exercises control over all franchisees, including Haynes Partnership, by
13 requiring them to operate in compliance with the same uniform policies and procedures that
14 McDonald's imposes on all of its franchisees, including its policies and procedures governing hiring
15 and training employees, conducting wage surveys, and disciplining crew members.

16 85. Plaintiffs are informed and believe, and thereon allege, that McDonald's exercises
17 control over franchisees' personnel practices, including in the following ways:

- 18 a. McDonald's sets franchise policies on diversity, discrimination and harassment
19 (including mandated employee reporting mechanisms), management-employee
20 communication, solicitation and distribution of literature, leaves of absence, and
21 student workers;
- 22 b. McDonald's evaluates franchisees on their use of an "effective hiring process,"
23 including how job applicants are solicited;
- 24 c. McDonald's lists franchise job openings on its own website and encourages
25 applicants to apply using a standardized McDonald's on-line application;
- 26 d. McDonald's provides and requires franchisees to use an on-line assessment tool for
27 applicant screening, criteria for assessing the screening, and other criteria and
28 instructions for interviewing applicants;

- e. McDonald's requires franchise owners to attend and satisfactorily complete an extensive and detailed training program at Hamburger University on how to operate, staff, and manage McDonald's restaurants, and to enroll their managers in similar McDonald's required training at Hamburger University or other designated training centers;
- f. McDonald's evaluates franchisees on whether franchisees have had their employees participate in McDonald's-led trainings, including, for example, by requiring all new hires to view the corporate training video that Plaintiff Lopez was required to watch before beginning work;
- g. McDonald's requires franchisees to conduct an employee satisfaction survey;
- h. McDonald's evaluates franchisees on whether they have conducted wage reviews and provides a form to use for such wage reviews;
- i. McDonald's sets franchise disciplinary policy and provides forms used to document workplace conduct;
- j. McDonald's encourages franchisee employees to report instances of wage theft to McDonald's, in addition to franchisee management;
- k. McDonald's grades franchisees on employees' interactions with customers, including their tone of voice, eye contact, facial expressions, words used, and assembly of food items; and
- l. McDonald's affects the range of possible franchisee wage rates by controlling restaurants' staffing levels, controlling certain product pricing, requiring use of specific supplies and suppliers, and charging marketing, service, and other franchise fees that significantly impact franchisees' profit margins and budget lines.

86. Plaintiffs are informed and believe, and thereon allege, that McDonald's trains franchisees' managers on personnel practices, including on state law requirements for employee breaks and overtime, the number of employees that should be working each shift, the number of employees that should be working at each station such as the grill, fryer, drink machine, registers and drive-through window, how to balance fixed and non-fixed labor costs, how to calculate and

1 monitor a restaurant's labor percentage, and how to reduce labor costs through such practices as not
2 permitting overtime work.

3 87. Plaintiffs are informed and believe, and thereon allege, that McDonald's periodic
4 evaluations of its franchisees, including Defendant Haynes Partnership, are graded in part on
5 whether the franchise is using all of the documentation and record-keeping practices that
6 McDonald's requires.

7 88. Plaintiffs are informed and believe, and thereon allege, that McDonald's exercises
8 extensive control over the personnel matters of all franchisees, including Haynes Partnership,
9 because franchisees' labor costs are directly tied to McDonald's profits. In its February 2014 Form
10 10-K filed with the United States Securities and Exchange Commission, McDonald's Corporation
11 acknowledged as much, stating that "key features" that can affect its "operations, plans and results"
12 include "[t]he impact on [its] margins of labor costs that [it] cannot offset through price increases,
13 and the long-term trend toward higher wages and social expenses in both mature and developing
14 markets, which may intensify with increasing public focus on matters of income inequality."

15 McDonald's Exercises Control Over Staffing and Scheduling
16 of Crew Members at the Restaurants

17 89. Plaintiffs are informed and believe, and thereon allege, that McDonald's requires all
18 franchisees, including Haynes Partnership, to use McDonald's computer software that establishes
19 prescribed staffing levels, weekly employee schedules, and positions of crew members within a
20 restaurant, and that McDonald's evaluates franchisees on whether they are using this software
21 properly.

22 90. Plaintiffs are informed and believe, and thereon allege, that McDonald's instructs all
23 franchisees, including Haynes Partnership, to use a positioning tool included in McDonald's
24 computer software to ensure that the number of people working each shift and the number of people
25 positioned at each station within the restaurant are consistent with, and not greater than, the
26 numbers that McDonald's has determined are no more than the maximum number needed to fulfill
27 its operational and financial priorities, and in particular its priorities of providing a certain level and
28 speed of service while keeping labor costs below a specified percentage of gross sales.

1 91. Plaintiffs are informed and believe, and thereon allege, that McDonald's provides
2 manuals, training and reference books, forms, and other instructions and guidelines to all
3 franchisees, including Haynes Partnership, that set forth corporate standards and requirements,
4 including but not limited to checklists to be used to check on store conditions, including supplies,
5 level of staffing and cleanliness; and instructions for calculating the number of employees that
6 should be staffed at varying intervals.

7 92. Plaintiffs are informed and believe, and thereon allege, that McDonald's business
8 consultants review corporate-generated staffing sheets and position sheets with all franchisees.

9 93. Plaintiffs are informed and believe, and thereon allege, that McDonald's business
10 consultants work with franchisees to control the amount of crew members' hours in restaurants in
11 relation to the amount of the restaurants' sales.

12 94. McDonald's requires all franchisee restaurants to remain open seven days per week
13 from at least 7:00 a.m. to 11:00 p.m., and McDonald's unilaterally determines whether its
14 franchises, including Haynes Partnership, will be open or closed on major holidays.

15 McDonald's Exercises Control Over Crew Members' Job Duties and Performance

16 95. Plaintiffs are informed and believe, and thereon allege, that McDonald's requires its
17 franchisees, including Haynes Partnership, to meet rigid timing requirements for every component
18 of restaurant transactions, that McDonald's tracks the timing of all crew members' execution of
19 these tasks using McDonald's software, and that McDonald's requires details of all crew members'
20 performance to be forwarded to McDonald's on a regular basis. For example, McDonald's
21 guidelines provide that a transaction at the drive through should take three or three and a half
22 minutes, and whether that time is met is tracked in part by when crew members enter certain
23 information on their cash registers.

24 96. McDonald's provides franchisees a positioning guide that tells restaurant managers
25 where crew members should be positioned within the store and corporate operating procedures for
26 each station such as the grill, the drive-through and the front registers.

27 97. Plaintiffs are informed and believe, and thereon allege, that McDonald's, through its
28 business consultant, indirectly counsels individual crew members at the Restaurants on their job

1 duties. On information and belief, McDonald's business consultants review crew member
2 performance and provide instructions on how crew members should improve their execution of job
3 duties to franchise managers, who then relay those instructions to the crew members.

4 98. Plaintiffs are informed and believe, and thereon allege, that McDonald's, through its
5 business consultant, has taken action to correct crew members' performance of job duties by
6 reporting issues to Restaurant managers, who then relay these corrections to crew members.

7 99. Plaintiffs are informed and believe, and thereon allege, that McDonald's business
8 consultants and other McDonald's agents review and monitor each franchisee, including Defendant
9 Haynes Partnership, to determine if crew members meet the various timing requirements for each
10 transaction in the restaurant, and will instruct franchisees to improve crew member performance if
11 the requirements are not being met.

12 McDonald's Exercises Control Over Haynes Partnership by Requiring the Franchisee to Use a
13 McDonald's Computer System and Monitoring Labor and Sales Data Collected By That System

14 100. Plaintiffs are informed and believe, and thereon allege, that McDonald's requires all
15 franchisees, including Defendant Haynes Partnership, to use McDonald's proprietary computer
16 hardware and software to track practically all transactions in the franchisee restaurants, including
17 sales, product mix, cash control, labor costs, and crew members' hours and schedules

18 101. Plaintiffs are informed and believe, and thereon allege, that McDonald's has access
19 to each of its franchisees' sales and other restaurant-level information, which is stored on the
20 McDonald's servers.

21 102. Plaintiffs are informed and believe, and thereon allege, that data from the
22 franchisees' computers is transferred to McDonald's on a daily basis and this data is reviewed
23 regularly by McDonald's to assess franchisee performance.

24 103. Plaintiffs are informed and believe, and thereon allege, that McDonald's computer
25 software permits all franchisees, including Defendant Haynes Partnership, to track whether labor is
26 "high" at a given time in the Restaurants, meaning whether labor costs represent a large percentage
27 of sales revenue.

28

1 104. Plaintiffs are informed and believe, and thereon allege, that McDonald's computer
2 software, which all franchisees are required to use, identifies when crew members have worked
3 hours that qualify for overtime pay and further that the data collected by the software system are and
4 may be used to produce a report showing crew members' hours worked without providing legally
5 required meal periods or rest breaks.

6 105. Plaintiffs are informed and believe, and thereon allege, that data captured by
7 McDonald's computer software is used by McDonald's and Haynes Partnership to produce Daily
8 Activity Reports ("DARs") that reflect the punch-in and punch-out times of all employees in
9 franchisee restaurants on a given day.

10 106. Plaintiffs are informed and believe, and thereon allege, that McDonald's business
11 consultants, when conducting inspections of franchisees, can and do request to review DARs and,
12 according to McDonald's operating procedures, DARs are supposed to kept in the restaurants for
13 several months.

14 107. All McDonald's franchisee crew members are required to punch in at the beginning
15 of their shift, to punch out at the beginning of rest breaks and meal periods, to punch back in at the
16 end of rest breaks and meal periods, and to punch out at the end of their shift. These times are
17 captured by McDonald's computer software. At the end of each crew member's shift, a paper
18 receipt is printed on which the crew member's punch-in and punch-out times are recorded.

19 108. Restaurant managers have authority to edit records of punch-in and punch-out entries
20 made by crew members. Plaintiffs are informed and believe, and thereon alleged, that McDonald's
21 software system tracks and records edits made to crew members' punch-in and punch-out times, and
22 that McDonald's can determine and is aware when crew members' time has been adjusted or edited.

23 **JOINT LIABILITY ALLEGATIONS**

24 **A. Defendants Have Jointly Employed Plaintiffs and All Class Members**

25 109. Plaintiffs and Class Members have been jointly employed by Defendants Haynes
26 Partnership and McDonald's to work in the Restaurants. Much of these employees' work has been
27 and is performed at the direction of Haynes Partnership' supervisors based on specific guidelines,
28 procedures, and protocols mandated by Defendant McDonald's and overseen and enforced by

1 Defendant McDonald's. Haynes Partnership applies and enforces McDonald's guidelines,
2 requirements, and training with respect to Plaintiffs and Class Members, including but not limited
3 to requirements regarding how crew members perform their job duties, how crew members are
4 evaluated, and how crew members are scheduled and positioned for work within each of the
5 Restaurants.

6 110. Defendant McDonald's has, along with Defendant Haynes Partnership, jointly
7 controlled and dictated all material terms and conditions of the employment of Plaintiffs and Class
8 Members, including but not limited to by:

- 9 a. Dictating the specific tasks to be undertaken by Plaintiffs and Class Members and the
10 manner and order in which these tasks are to be completed, and enforcing detailed
11 standard operating procedures governing the work Plaintiffs and Class Members
12 have been required to perform, including off-the-clock work and other time worked
13 that McDonald's knew or should have known was not being compensated and
14 overtime hours worked that McDonald's knew or should have known was not being
15 properly compensated;
- 16 b. Devising and requiring standardized training that must be completed by Plaintiffs
17 and Class Members;
- 18 c. Overseeing directly and indirectly through on-site supervision and computer
19 monitoring the day-to-day performance of Plaintiffs and Class Members;
- 20 d. Conducting comprehensive evaluations and reviews on a regular basis that assessed
21 the performance of Plaintiffs and Class Members, including by measuring their
22 efficiency and productivity and the Restaurants' labor costs, including wages paid to
23 Plaintiffs and Class Members;
- 24 e. Developing plans to correct any deficiencies identified by McDonald's in the
25 evaluations and reviews of the Restaurants; and
- 26 f. Regularly assessing the productivity of all workers employed at the Restaurants,
27 including Plaintiffs and Class Members, and including a review of staffing levels and
28 labor costs.

1 111. McDonald's and Haynes Partnership jointly oversee and supervise the work of
2 Plaintiffs and Class Members through several means, including by McDonald's dictating the
3 required number of supervisory staff who oversee Plaintiffs' and Class Members' work
4 performance and productivity, and by McDonald's itself maintaining supervisory staff on the
5 premises at regular intervals.

6 112. McDonald's has set the standards for training, work performance, conduct, and
7 disciplinary infractions and procedures for all Plaintiffs and Class Members and thus exercises
8 shared responsibility for discipline and discharge decisions involving Class Members who violate
9 McDonald's training, work performance, and/or conduct standards. Further, McDonald's has
10 authority and has jointly exercised the authority, along with Haynes Partnership, to discharge,
11 discipline, and/or correct the work of such employees for perceived infractions of either Haynes
12 Partnership' or McDonald's rules, policies, or procedures.

13 113. McDonald's requires Haynes Partnership to provide high quality, trained staff to
14 conduct its restaurant operations, including by imposing detailed standards for pre-employment
15 screening, orientation, and training that must be completed before Plaintiffs and Class Members
16 begin working at the Restaurants.

17 114. Plaintiffs are informed and believe, and thereon allege, that McDonald's has jointly
18 exercised control with Haynes Partnership over the number of hours, productivity standards,
19 schedules, and the speed and amount of work performed by Plaintiffs and Class Members by,
20 among other things:

- 21 a. Establishing standard operating metrics for the Restaurants that impose requirements
22 for accuracy, timely processing, and productivity;
- 23 b. Creating projections and formulae that establish, *inter alia*, the number of hours to
24 be expended in the Restaurants, the ratio of managers to crew members in the
25 Restaurants, the job duties and positions to be filled by managers and crew members
26 in the Restaurants, and the associated labor costs;
- 27 c. Requiring Haynes Partnership to collect detailed statistics on the number of hours
28 worked by Plaintiffs and each member of the Class on a daily basis and to report

1 these numbers to McDonald's in other regular reports and assessments of the
2 Restaurants' performance and finances;

3 d. Determining, through its budgeting and staffing projection practices, the specific
4 amount of budgeted hours that the Restaurants devote to servicing customers during
5 a particular workweek while also controlling the volume of food products that must
6 be sold at the Restaurants during any week and the required rates at which those
7 products must be sold; and

8 e. Other related means.

9 115. McDonald's has, along with Haynes Partnership, jointly exercised control over the
10 pay that Plaintiffs and Class Members receive through various means, including but not limited to,
11 by:

12 a. Dictating the pace at which crew members' work must be performed;

13 b. Exercising strict controls over what Haynes Partnership can pay crew members
14 through McDonald's budgeting and staffing projection procedures;

15 c. Exercising strict controls over the number and cost of overtime hours worked in the
16 McDonald's restaurants;

17 d. Closely monitoring the number of hours worked by crew members and income
18 earned through sales of food and other goods to customers; and

19 e. Other means designed to suppress and/or lower the wages paid to Plaintiffs and
20 Class Members.

21 116. McDonald's has, along with Haynes Partnership, jointly exercised control over the
22 working conditions under which Plaintiffs and Class Members perform their jobs by, among other
23 things:

24 a. Supervising, monitoring, and checking their work, as alleged in more detail above;

25 b. Determining the protocol and procedure for performing all job functions at the
26 McDonald's restaurants that must be followed as the minimum level of acceptable
27 performance in those restaurants;
28

- c. Setting the daily pace of work, including by imposing onerous and unrealistic productivity standards;
- d. Setting work rules; and
- e. Other related means.

117. Defendants Haynes Partnership and McDonald's have been and continue to be joint employers of Plaintiffs and Class Members for the reasons above, and the following reasons, among others:

- a. Defendants have jointly controlled and dictated all material terms and conditions of the employment of Plaintiffs and Class Members;
- b. Plaintiffs and Class Members have jointly applied for employment through both Haynes Partnership and McDonald's, including by submitting applications to Haynes Partnership supervisors who are required to use and have in fact used orientation and/or training materials from McDonald's;
- c. Defendants Haynes Partnership and McDonald's jointly implement the new-hire orientation that Plaintiffs and Class Members must undertake after hiring, which has taken place at the Restaurants with McDonald's training materials;
- d. Defendants Haynes Partnership and McDonald's have had authority and have jointly exercised the authority to discipline and/or correct the work of Plaintiffs and Class Members for perceived infractions of either McDonald's or Haynes Partnership' rules or policies;
- e. Defendants Haynes Partnership and McDonald's have jointly exercised control over the number of hours and types of work performed by Plaintiffs and Class Members by, among other things, deciding whether and when to require crew members to perform work and deciding on the amount and pace of work the crew members must perform;
- f. Defendants Haynes Partnership and McDonald's have jointly exercised control over the working conditions under which Plaintiffs and Class Members perform their jobs by supervising, monitoring, and checking their work, including through inspections

1 and Mystery Shoppers that rate crew members' job performance; by determining the
2 protocol and procedure for assigning crew members to work stations, evaluating and
3 disciplining crew members, and creating crew members' schedules; and by setting
4 the daily pace of work;

5 g. Defendants Haynes Partnership and McDonald's have jointly exercised control over
6 the compensation paid to Plaintiffs and Class Members, including but not limited to
7 by training Haynes Partnership owners and managers on how to control labor costs
8 through wage rates, scheduling, and compensation practices, and by requiring
9 Haynes Partnership Restaurants to maintain labor costs below a certain percentage of
10 gross sales; and

11 h. Plaintiffs and Class Members physically worked and reported to work on premises
12 that, on information and belief, are owned by McDonald's.

13 118. The restaurant job duties performed by Plaintiffs and Class Members constitute an
14 integral, core function of the restaurant business of Defendants Haynes Partnership and
15 McDonald's.

16 119. McDonald's has suffered or permitted Plaintiffs and other Class Members to work in
17 the Restaurants by acquiescing in and not hindering their working, including by not remedying but
18 instead accepting and profiting from the unlawful conditions under which they work;

19 120. Plaintiffs and Class Members have performed work that consists primarily of labor
20 that does not require specialized training, education, or the exercise of judgment or discretion to
21 perform.

22 121. For the reasons set forth above, among others, Defendants Haynes Partnership and
23 McDonald's, directly or indirectly, or through an agent or any other person, have employed or
24 exercised control over the wages, hours, or working conditions of Plaintiffs and Class Members.

25 122. For the reasons set forth above, among others, Defendant McDonald's, together with
26 Defendant Haynes Partnership, directly or indirectly, or through an agent or any other person,
27 employs or exercises control over the wages, hours, or working conditions of all Plaintiffs and Class
28 Members.

1 **B. Defendants Have Committed the Violations Alleged Herein as Co-Conspirators**

2 123. Plaintiffs are informed and believe, and thereon allege, that at all material times,
3 each Defendant acted and is continuing to act as a co-conspirator of each other defendant and of
4 certain unnamed and as-yet unknown co-conspirators.

5 124. Plaintiffs are informed and believe, and thereon allege, that prior to the start of the
6 applicable limitations periods, each defendant entered into a conspiracy and agreement with the
7 other defendants and with unnamed and unknown co-conspirators and/or subsequently joined said
8 conspiracy and ratified the prior acts and conduct of the other defendants and/or co-conspirators
9 who had previously entered into said conspiracy. The purpose of said ongoing conspiracy includes
10 unlawfully evading compliance with state labor laws in an effort to artificially reduce Defendants'
11 labor costs and unlawfully maximize Defendants' profits by failing to pay Plaintiffs and Class
12 Members the wages and benefits required by law, failing to provide meal periods, rest breaks, and
13 other labor rights mandated by law, failing to provide workers with information required by law,
14 and by other means. Plaintiffs are currently unaware of when each defendant or other co-
15 conspirator joined said conspiracy but, on information and belief, allege that Defendants and their
16 co-conspirators all knowingly, maliciously and wilfully entered into said conspiracy which
17 continues to this day. By engaging in the conduct and omissions alleged in this Complaint, each
18 defendant was acting within the course and scope of its agency, with the authorization of the other
19 defendants, and in furtherance of the ongoing conspiracy.

20 **C. Defendants Have Aided and Abetted Each Other in the Commission of the Violations**
21 **Alleged Herein**

22 125. Defendants Haynes Partnership and McDonald's aided and abetted each other in the
23 commission of the violations against Plaintiffs and Class Members as alleged herein.

24 126. Haynes Partnership and McDonald's knew that their conduct as alleged herein was in
25 breach of their duties to Plaintiffs and Class Members, yet gave substantial assistance or
26 encouragement to each other to so act. In addition, the conduct of Haynes Partnership and
27 McDonald's breached those defendants' duties to Plaintiffs and Class Members.
28

1 127. Haynes Partnership and McDonald's have given substantial assistance or
2 encouragement to each other by, for example, requiring Plaintiffs and Class Members to meet high
3 productivity standards under severe time constraints, while also taking steps to keep labor costs low,
4 and by charging and agreeing to pay high franchise fees, and together caused violations of
5 Plaintiffs' and Class Members' rights under California law, as set forth herein.

6 **D. Haynes Partnership Acted as McDonald's Agent**

7 128. Plaintiffs are informed and believe, and thereon allege, that at all material times,
8 Haynes Partnership acted as an agent of McDonald's; Haynes Partnership employed Plaintiffs and
9 Class Members on behalf of McDonald's for those defendants' mutual benefit; and Defendants
10 jointly had the authority to control and exercised control over the wages, hours, and working
11 conditions of Plaintiffs and Class Members.

12 129. The control McDonald's has asserted and continues to assert over Defendant Haynes
13 Partnership exceeds any control necessary to protect McDonald's trademark or good will.

14 130. By engaging in the violations alleged herein, Haynes Partnership was acting within
15 the course and scope of its agency, with the authorization of McDonald's.

16 **E. McDonald's Was Negligent in Its Retention, Supervision, and/or Control of Haynes**
17 **Partnership**

18 131. On information and belief, McDonald's has been the owner and/or lessee of the
19 Restaurants where Plaintiffs and Class Members worked, and the only franchisor of the Restaurants
20 during the applicable Class Period.

21 132. At all relevant times, McDonald's has closely monitored, supervised, and controlled
22 the operations of the Restaurants, and has known or should have known of the violations of the state
23 labor and employment law rights of Plaintiffs and Class Members that have been occurring at the
24 Restaurants since the start of the limitations period, including violations committed by Haynes
25 Partnership, as alleged herein. These violations include but are not limited to requiring Plaintiffs
26 and Class Members to work without proper compensation for all hours worked, failing to
27 compensate Plaintiffs and Class Members at legally required wage rates, failing to compensate
28

1 Plaintiffs and Class Members when not provided legally required meal periods and rest breaks, and
2 failing to disclose critical wage and hour information to Plaintiffs and Class Members.

3 133. At all relevant times, McDonald's has negligently retained, supervised, and/or
4 controlled Haynes Partnership as the franchisee of its restaurants. Although McDonald's knew or
5 should have known of the violations alleged herein, McDonald's failed to take any reasonable steps
6 to stop those violations from continuing or increasing in scope or frequency, and instead created
7 conditions that inevitably increased the likelihood that these violations would continue to occur and
8 worsen, including by maintaining contractual arrangements with Haynes Partnership that contain
9 powerful economic incentives for both McDonald's and Haynes Partnership to require increased
10 productivity from Plaintiffs and Class Members while lowering the costs of their labor, including by
11 reducing the amount of reported hours and overtime hours worked.

12 134. McDonald's knew or should have known that retaining Haynes Partnership to
13 operate the Restaurants on McDonald's behalf would create an undue risk that the state labor and
14 employment law rights of Plaintiffs and Class Members would be violated as alleged herein, and
15 that those workers would thereby be harmed, in part because McDonald's knew or should have
16 known, based on the terms of its contracts with Haynes Partnership and its knowledge of what had
17 been occurring at the Restaurants and at other restaurants throughout the country, including
18 McDonald's-corporate restaurants, that Haynes Partnership would not be able to simultaneously
19 meet McDonald's productivity standards, stay within McDonald's labor and cost budgets, and
20 maintain a profit margin at the rates paid by McDonald's while complying with all applicable state
21 employment law standards.

22 135. McDonald's has known or should have known that Haynes Partnership was violating
23 and would continue to violate the employment law rights of Plaintiffs and Class Members as alleged
24 herein, because McDonald's closely monitored, supervised, and controlled Haynes Partnership'
25 restaurant operations, including the hours worked by Plaintiffs and Class Members, the breaks
26 received by those crew members, the amounts paid to those crew members, and the conditions
27 under which those crew members labored.

136. Although McDonald's has had the authority to control, and has exercised substantial control, over Haynes Partnership's operation of the Restaurants, including the material terms and conditions of the employment of Plaintiffs and other Class Members, McDonald's has failed to ensure compliance with state employment law standards or to implement effective procedures for ensuring such compliance in the Restaurants. McDonald's also failed to take reasonable measures to prevent the violations alleged herein from continuing to occur including, *inter alia*, by failing to set rates for restaurant services, productivity standards, and staffing and labor budgets that would realistically permit compliance with the applicable labor and employment laws; failing to exercise its authority to monitor, supervise, and control Haynes Partnership in a manner that ensured compliance with state labor and employment laws, instead of turning a willful blind eye to violations; and/or failing to prohibit Haynes Partnership from continuing to violate Plaintiffs' and Class Members' rights as alleged herein.

137. The violations and harms to Plaintiffs and Class Members alleged herein are the result of McDonald's failure to exercise due care in the retention, supervision, and/or control of Haynes Partnership and, based on the facts described above, which McDonald's knew or should have known when it continued to retain, supervise, and control Haynes Partnership, those violations and harms were foreseeable.

CLASS ACTION ALLEGATIONS

138. Plaintiffs Salazar, Lopez, and Zarate, as class representatives, bring this action on behalf of a class of all similarly situated individuals, pursuant to California Code of Civil Procedure §382. The proposed class includes the following similarly situated individuals (“Class Members”): All individuals currently or formerly employed by Defendants as crew members at one or more of Defendant Haynes Partnership’s franchised McDonald’s restaurants in California (“the Restaurants”), at any time within the period beginning four (4) years prior to the filing of this action and ending at the time this action proceeds to final judgment or settles (the “Class Period”). Plaintiffs reserve the right to name additional class representatives and to identify sub-classes and sub-class representatives as may be necessary and appropriate.

1 139. Ascertainability. The identity of all Class Members is readily ascertainable from
2 Defendants' records, and class notice can be provided to all Class Members by conventional means
3 such as U.S. mail, email, and workplace postings.

4 140. Numerosity. The size of the class makes a class action both necessary and efficient.
5 The class consists of over 100 McDonald's employees currently or formerly working at the
6 Restaurants during the applicable limitations period. Members of the class are ascertainable but so
7 numerous that joinder is impracticable. The class includes future class members who will benefit
8 from the injunctive relief sought herein and whose joinder is inherently impossible.

9 141. Common Questions of Law and Fact. This case poses common questions of law and
10 fact, which are likely to generate common answers advancing resolution of the litigation, affecting
11 the rights of all Class Members, including:

- 12 a. The legality of Defendants' compensation systems;
- 13 b. The policies, practices, programs, procedures, protocols, and plans of Defendants
14 regarding payment of wages;
- 15 c. The policies, practices, programs, procedures, protocols, and plans of Defendants
16 regarding payment of overtime premiums;
- 17 d. Whether Defendants paid Plaintiffs and Class Members their full wages when due as
18 required by California Labor Code §§204, 206, 223, and 1195.5;
- 19 e. Whether Defendants required, suffered, or permitted Plaintiffs and Class Members to
20 work in excess of eight hours per day and/or 40 hours per week;
- 21 f. Whether Defendants paid Plaintiffs and Class Members the legally required overtime
22 premium for hours worked in excess of eight hours per day and/or 40 hours per
23 week;
- 24 g. Whether Defendants provided Plaintiffs and Class Members with accurate itemized
25 wage statements as required by California Labor Code §226;
- 26 h. Whether Defendants maintained records for Plaintiffs and Class Members as
27 required under California Labor Code §§226 and 1174 and IWC Wage Order No.
28 5-2001 §7.

- 1 i. Whether Defendants violated California Labor Code §226.7 and 512 and IWC Wage
2 Order 5-2001 §11 by failing to provide Plaintiffs and Class Members with a meal
3 period for every five hours worked and by failing to compensate said employees one
4 hour of wages in lieu of each full and timely meal period that was not provided;
- 5 j. Whether Defendants violated California Labor Code §226.7 and IWC Wage Order 5-
6 2001 §12 by failing to provide paid rest breaks to Plaintiffs and Class Members for
7 every four hours or major fraction thereof worked and failed to compensate said
8 employees one hour of wages in lieu of each full and timely rest break that was not
9 provided;
- 10 k. Whether Defendants violated California Labor Code §§221, 450 and 2802 and IWC
11 Wage Order 5-2001 §8 by failing to indemnify Plaintiffs and Class Members for
12 necessary business expenses they incurred in the discharge of their duties;
- 13 l. Whether Defendants engaged in unfair and unlawful business practices in violation
14 of Business & Professions Code §17200 et seq.;
- 15 m. Whether Defendants are joint employers of Plaintiffs and Class Members;
- 16 n. Whether the named Defendants conspired with each other and/or with any unnamed
17 co-conspirator, as alleged herein;
- 18 o. Whether any Defendants aided and abetted other Defendants in the commission of
19 the violations alleged herein;
- 20 p. Whether any Defendants acted as the agent of other Defendants in the commission of
21 the violations alleged herein;
- 22 q. Whether McDonald's negligently retained, supervised and/or controlled Haynes
23 Partnership; and
- 24 r. What relief is necessary to remedy Defendants' unfair and unlawful conduct as
25 herein alleged.

26 142. Typicality. The claims of the individual plaintiffs are typical of the claims of the
27 class as a whole. Defendants' unlawful wage policies and practices, which have operated to deny
28 Plaintiffs the overtime premiums, minimum wages, other unpaid wages, and other compensation,

benefits, penalties, and protections required by law, are typical of the unlawful wage policies and practices that have and will continue to operate to deny other Class Members lawful compensation.

143. Adequacy of Class Representation. The individual plaintiffs can adequately and fairly represent the interests of the class as defined above, because their individual interests are consistent with, not antagonistic to, the interests of the class.

144. Adequacy of Counsel for the Class. Counsel for Plaintiffs have the requisite resources and ability to prosecute this case as a class action and are experienced labor and employment and class action attorneys who have successfully litigated other cases involving similar wage and hour issues, including on a class action basis.

145. Propriety of Class Action Mechanism. This suit is properly maintainable as a class action under California Code of Civil Procedure §382 because Defendants have implemented a series of unlawful schemes that are generally applicable to the class, making it appropriate to issue final injunctive relief and corresponding declaratory relief with respect to the class as a whole. This suit is also properly maintainable as a class action because the common questions of law and fact predominate over any questions affecting only individual members of the class. For all these and other reasons, a class action is superior to other available methods for the fair and efficient adjudication of the controversy set forth in this Complaint.

FIRST CLAIM FOR RELIEF

Failure to Pay All Wages When Due

[Cal. Labor Code §§204, 206, 223, 225.5 1194.5 1195.5]

(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class

Against All Defendants)

146. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by reference all previous paragraphs.

147. California Labor Code §204 requires an employer to pay all wages to its employees when those wages are due. California Labor Code §206 requires that, in a case of a dispute over wages, an employer must pay, without condition and within the time set by statute, all wages, or parts thereof, conceded to be due. California Labor Code §223 prohibits an employer from secretly

1 paying a lower wage while purporting to pay the required wage designated by statute or by contract.
2 California Labor Code §225.5 provides that every person who unlawfully withholds wages due any
3 employee in violation of §223 shall be subject to a civil penalty for an initial violation of \$100 for
4 each failure to pay each employee, and for each subsequent violation or any willful or intentional
5 violation of \$200 for each failure to pay each employee plus 25 percent of the amount unlawfully
6 withheld. California Labor Code §1195.5 requires an employer to correctly compute and pay wages
7 due to employees, including wages above the minimum wage.

8 148. During the Class Period, Defendants have followed and continue to follow several
9 policies and practices directly resulting in their failure to pay Plaintiffs and Class Members all
10 wages for all hours worked when they are due, and of withholding wages due by secretly paying a
11 lower wage than purported. These policies and practices include, but are not limited to the
12 following:

- 13 a. Altered Time Records. On information and belief, Defendants have failed and
14 continue to fail to pay Plaintiffs and Class Members for all hours worked by
15 following a policy and practice of encouraging, permitting, and/or ratifying managers
16 or supervisors routinely to edit or delete time recorded by the punch-in and punch-
17 out system. On information and belief, this policy and practice has resulted in
18 Defendants paying Plaintiffs and Class Members for less time than they have
19 actually worked.
- 20 b. Off-the-Clock Work. Defendants have followed and continue to follow a policy and
21 practice of requiring, suffering, or permitting Plaintiffs and Class Members to
22 perform uncompensated work off the clock while not punched in.
- 23 c. Minimum Wages, Overtime, and Missed Meal Period and Rest Break Premium
24 Wages. As alleged in the Second through Fifth Claims for Relief below and
25 incorporated by reference here, Defendants have followed and continue to follow a
26 policy and practice of failing to pay Plaintiffs and Class Members minimum wages,
27 overtime compensation, and additional wages due for missed, untimely, or shortened
28

1 meal periods and rest breaks, thereby failing to pay Plaintiffs and Class Members all
2 wages due for all hours worked.

3 149. Defendants have committed and continue to commit the acts alleged herein
4 knowingly and willfully.

5 150. As a proximate result of Defendants' unlawful actions and omissions, Plaintiffs and
6 Class Members have sustained economic damages, including but not limited to unpaid wages and
7 lost interest, in an amount to be established at trial, and are entitled to recover economic and
8 statutory damages and penalties and other appropriate relief from Defendants' violations of the
9 California Labor Code.

10 151. California Labor Code §1194.5 authorizes injunctions where an employer has
11 willfully violated laws governing wages, hours, or working conditions. Plaintiffs and current
12 employee Class Members, who are low-wage workers for whom Defendants' failure to pay all
13 wages when due for all hours worked creates substantial hardship, are entitled to preliminary and
14 permanent injunctive relief under the governing legal standards, and are entitled to an order
15 requiring Defendants to pay all wages when due and to keep accurate track of all time Plaintiffs and
16 Class Members spend working each day.

17 **SECOND CLAIM FOR RELIEF**

18 **Failure to Pay Overtime Wages**

19 **[Cal. Labor Code §§510, 1194, 1194.5, 1198; IWC Wage Order No. 5-2001, §3]**

20 **(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class**

21 **Against All Defendants)**

22 152. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by
23 reference all previous paragraphs.

24 153. It is unlawful under California law for an employer to require, suffer or permit an
25 employee to work in excess of eight hours per workday or 40 hours per workweek without paying
26 premium wages under California Labor Code §510 and IWC Wage Order 5-2001 §3.

27 154. California Labor Code §1198 makes employment of an employee for longer hours
28 than the IWC sets or under conditions the IWC prohibits unlawful. California Labor Code §1194(a)

1 entitles an employee to recover in a civil action the unpaid balance of all overtime compensation
2 due but not paid.

3 155. Plaintiffs and Class Members are current and former non-exempt employees entitled
4 to the protections of California Labor Code §§510, 1194, and IWC Wage Order No. 5-2001.

5 156. Plaintiffs and Class Members have worked and at times continue to work in excess
6 of eight hours per workday and in excess of 40 hours per workweek.

7 157. During the Class Period, Defendants have followed and continue to follow a policy
8 and practice of not paying Plaintiffs and Class Members properly for overtime, and have failed and
9 continue to fail properly to compensate Plaintiffs and Class Members for all overtime hours worked
10 under California law. For example, Defendants have followed and continue to follow a policy and
11 practice of failing to pay Plaintiffs and Class Members for all overtime hours Defendants require,
12 permit, or suffer Plaintiffs and Class Members to work off the clock; hours that Defendants alter or
13 remove from time records; and hours Defendants move from one day to another to avoid overtime
14 rates.

15 158. Defendants have committed and continue to commit the acts alleged herein
16 knowingly and willfully.

17 159. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
18 Plaintiffs and Class Members have sustained economic damages, including but not limited to
19 unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover
20 economic and statutory damages and penalties and other appropriate relief from Defendants'
21 violations of the California Labor Code and IWC Wage Order 5-2001.

22 160. California Labor Code §1194.5 authorizes injunctions where an employer has
23 willfully violated laws governing wages, hours, or working conditions. Plaintiffs and current
24 employee Class Members, who are low-wage workers for whom Defendants' failure to pay required
25 overtime creates substantial hardship, are entitled to preliminary and permanent injunctive relief
26 under the governing legal standards, and are entitled to an order requiring Defendants to pay
27 required overtime premiums and to keep track of the time Plaintiffs and Class Members spend
28 working over eight hours each day and over 40 hours each week.

THIRD CLAIM FOR RELIEF

Failure to Pay Minimum Wages

[Cal Labor Code §§1182.12, 1194, 1194.2, 1194.5, 1197, 1198;

IWC Wage Order No. 5-2001, §4]

(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class

Against All Defendants)

161. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by reference all previous paragraphs.

162. California Labor Code §§1182.12 and 1197, and IWC Wage Order 5-2001 §4, require Defendants to pay Plaintiffs and Class Members at or above the state minimum wage of \$8.00 per hour for every hour Defendants suffer or permit those employees to work.

163. California Labor Code §1198 makes unlawful the employment of an employee under conditions the IWC prohibits. California Labor Code §§1194(a) and 1194.2(a) provide that an employer that has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages unpaid and interest thereon.

164. During the Class Period, Defendants have followed and continue to follow a policy and practice of failing to pay Plaintiffs and Class Members at or above the California minimum wage for many hours worked by Plaintiffs and Class Members, including but not limited to hours Defendants require, permit, or suffer Plaintiffs and Class Members to work off the clock and hours that Defendants alter or remove from time records.

165. Defendants have committed and continue to commit the acts alleged herein knowingly and willfully.

166. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiffs and Class Members have sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover economic and statutory damages and penalties and other appropriate relief from Defendants' violations of the California Labor Code and IWC Wage Order 5-2001.

1 167. California Labor Code §1194.5 authorizes injunctions where an employer has
2 willfully violated laws governing wages, hours, or working conditions. Plaintiffs and current
3 employee Class Members, who are low-wage workers for whom Defendants' failure to pay required
4 overtime creates substantial hardship, are entitled to preliminary and permanent injunctive relief
5 under the governing legal standards, and are entitled to an order requiring Defendants to pay
6 minimum wages and to keep accurate track of the time Plaintiffs and Class Members spend
7 performing all compensable work.

8 **FOURTH CLAIM FOR RELIEF**

9 **Failure to Provide Required Meal Periods or Pay Missed Meal Period Wages**

10 **[Cal. Labor Code §§226.7, 512, 1194.5, 1198;**

11 **IWC Wage Order No. 5-2001, §11]**

12 **(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class**

13 **Against All Defendants)**

14 168. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by
15 reference all previous paragraphs.

16 169. California Labor Code §226.7(a) prohibits an employer from requiring an employee
17 to work during any meal period mandated by an applicable Industrial Wage Order. California Labor
18 Code §512 and IWC Wage Order 5-2001 §11(A) prohibit employers from employing a worker for
19 more than five hours without a meal period of at least 30 minutes. California Labor Code §512
20 prohibits employers from employing a worker for more than 10 hours without a second meal period
21 of at least 30 minutes. Under both California Labor Code §226.7(b) and IWC Wage Order 5-2001
22 §11(B), if an employer fails to provide an employee a meal period as required, the employer must
23 pay the employee one hour of pay at the employee's regular rate of compensation for each workday
24 that a meal period is not provided as required.

25 170. California Labor Code §1198 makes unlawful the employment of an employee under
26 conditions the IWC prohibits.

27 171. During the Class Period, Defendants have had and continue to have a policy and
28 practice of failing to provide Plaintiffs and Class Members full and timely meal periods required by

1 California Labor Code §§226.7 and 512 and IWC Wage Order 5-2001 §11, including but not
2 limited to through the following: Plaintiffs and Class Members often have not been and are not
3 provided a meal period within their first five hours of work. When Plaintiffs and Class Members
4 receive meal periods, these meal periods often have been, and continue to be, late or shortened.
5 Defendants' restaurant locations are frequently busy and Defendants have implemented and
6 continue to implement a policy and practice of understaffing crew members at all Haynes
7 Partnership Restaurants. Defendants have permitted and continue to permit Plaintiffs and Class
8 Members to take breaks only when told to do so by their managers. Defendants also have
9 prohibited and continue to prohibit Plaintiffs and Class Members from taking breaks when the store
10 is busy or during times when a Mystery Shopper may be coming to the restaurant. Through these
11 and other policies and practices alleged above and incorporated herein by reference, Plaintiffs and
12 Class Members have regularly been denied, and continue to be denied, the opportunity to take a full,
13 uninterrupted, and timely meal period as required under the California Labor Code §§226.7 and
14 512, and IWC Wage Order No. 5-2001 §11.

15 172. Defendants have further violated and continue to violate California Labor Code
16 §226.7 and IWC Wage Order No. 5-2001 §11, by having had and continuing to have a policy and
17 practice of failing to pay each of their employees who was not provided with a full and timely meal
18 period an additional one hour of compensation at each employee's regular rate of pay.

19 173. Defendants have committed and continue to commit the acts alleged herein
20 knowingly and willfully.

21 174. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
22 Plaintiffs and Class Members have sustained economic damages, including but not limited to
23 unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover
24 economic and statutory damages and penalties and other appropriate relief from Defendants'
25 violations of the California Labor Code and IWC Wage Order 5-2001.

26 175. California Labor Code §1194.5 authorizes injunctions where an employer has
27 willfully violated laws governing wages, hours, or working conditions. Plaintiffs and current
28 employee Class Members, who are low-wage workers for whom Defendants' failure to provide

1 required meal periods or pay an additional hour's wages when required meal periods are missed,
2 late, or shortened creates substantial hardship, are entitled to preliminary and permanent injunctive
3 relief under the governing legal standards, and are entitled to an order requiring Defendants to
4 provide required meal periods, to pay one hour's wages for every day that an employee's required
5 meal period is missed, late, or shortened, and to keep accurate track of the times Plaintiffs and Class
6 Members begin and end each of their meal periods.

7 **FIFTH CLAIM FOR RELIEF**

8 **Failure to Provide Required Rest Breaks or Pay Missed Rest Break Wages**

9 **[Cal. Labor Code §§226.7, 1194.5 1198; IWC Wage Order No. 5-2001, §12]**

10 **(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class**

11 **Against All Defendants)**

12 176. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by
13 reference all previous paragraphs.

14 177. California Labor Code §226.7(a) prohibits an employer from requiring an employee
15 to work during any rest break mandated by an applicable Industrial Wage Order. IWC Wage Order
16 5-2001 §12(A) requires employers to authorize and permit employees who work three and one half
17 or more hours in a day to take a paid rest break of at least 10 minutes for every four hours worked or
18 major fraction thereof, which insofar as practicable shall be in the middle of each work period.
19 Under both California Labor Code §226.7(b) and IWC Wage Order 5-2001 §12(B), if an employer
20 fails to provide an employee a rest break as required, the employer must pay the employee one hour
21 of pay at the employee's regular rate of compensation for each workday that a rest break is not
22 provided as required.

23 178. California Labor Code §1198 makes unlawful the employment of an employee under
24 conditions the IWC prohibits.

25 179. During the Class Period, Defendants have had and continue to have a policy and
26 practice of failing to provide Plaintiffs and Class Members full and timely rest breaks required by
27 California Labor Code §226.7 and IWC Wage Order 5-2001 §12, including but not limited to
28 through the following:

- 1 a. Missed, Late, and Shortened Rest Breaks. As set forth above, Defendants willfully
2 understaff the Restaurants, in part, on information and belief, to satisfy Defendants'
3 objectives that labor costs be kept to a minimum. As a direct consequence of this
4 understaffing and imperative to keep labor costs low, Plaintiffs' and Class Members'
5 rest breaks frequently have been and continue to be missed, late, and/or shortened.
6 Plaintiffs and Class Members regularly have not been authorized or permitted to take
7 their first or second 10-minute rest break, have been only authorized or permitted to
8 take less than a full 10-minute rest break, or have been otherwise required to perform
9 work during their first or second 10-minute rest break.
- 10 b. Rest Break Timing. Additionally, Defendants have followed and continue to follow
11 a policy and practice of failing to provide Plaintiffs and Class Members 10-minute
12 rest breaks in the middle of each work period despite it being reasonably practicable
13 to provide the required break near or at the middle of the shift, including but not
14 limited to by requiring Plaintiffs and Class Members to take their first 10-minute rest
15 break near or at the beginning of their shift or after more than four hours of work, by
16 requiring Plaintiffs and Class Member to take their 10-minute rest breaks
17 consecutively with their 30-minute meal periods, and by requiring Plaintiffs and
18 Class members to take a second 10-minute rest break near or at the end of their
19 shifts, thereby violating California Labor Code §226.7 and IWC Wage Order No.
20 5-2001 §12.

21 180. Defendants have further violated and continue to violate California Labor Code
22 §226.7 and IWC Wage Order No. 5-2001 §12, by having had and continuing to have a policy and
23 practice of failing to pay each of their employees who was not provided with a full and timely rest
24 break an additional one hour of compensation at each employee's regular rate of pay.

25 181. Defendants have committed and continue to commit the acts alleged herein
26 knowingly and willfully.

27 182. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
28 Plaintiffs and Class Members have sustained economic damages, including but not limited to

1 unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover
2 economic and statutory damages and penalties and other appropriate relief from Defendants'
3 violations of the California Labor Code and IWC Wage Order 5-2001.

4 183. California Labor Code §1194.5 authorizes injunctions where an employer has
5 willfully violated laws governing wages, hours, or working conditions. Plaintiffs and current
6 employee Class Members, who are low-wage workers for whom Defendants' failure to provide
7 required rest breaks or pay an additional hour's wages when required rest breaks are missed, late, or
8 shortened creates substantial hardship, are entitled to preliminary and permanent injunctive relief
9 under the governing legal standards, and are entitled to an order requiring Defendants to provide
10 required rest breaks, to pay one hour's wages for every day that an employee's required rest break is
11 missed, late, or interrupted, and to keep accurate track of the times Plaintiffs and Class Members
12 begin and end each of their rest breaks.

13 **SIXTH CLAIM FOR RELIEF**

14 **Failure to Maintain Required Records**

15 **[Cal. Labor Code §§226, 1174, 1194.5, 1198; IWC Wage Order No. 5-2001 §7]**

16 **(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class**

17 **Against All Defendants)**

18 184. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by
19 reference all previous paragraphs.

20 185. California Labor Code §1174(c)-(d) requires employers to keep records showing the
21 names and addresses of all employees employed, and to keep, at a central location in the State of
22 California or at the establishments at which employees are employed, payroll records showing the
23 hours worked daily by and the wages paid to all employees employed at the establishment. IWC
24 Wage Order 5-2001 §7(A)(3) further requires employers to keep time records showing when the
25 employee begins and ends each work period, meal period, and split shift interval. Under §7(A)(5),
26 employers must also record each employee's total hours worked and applicable rates of pay, and
27 must make such information "readily available" to the employee upon request. Under §7(C), all
28 required records must be in the English language and in ink or other indelible form, properly dated,

1 showing month, day, and year, and must be kept on file by the employer for at least three years at
2 the place of employment or at a central location within the State of California. Under both §7(C)
3 and California Labor Code §226(b), all required records must be available for inspection by an
4 employee upon reasonable request.

5 186. California Labor Code §1198 makes unlawful the employment of an employee under
6 conditions the IWC prohibits.

7 187. Pursuant to Defendants' policy and practice, Defendants have willfully failed, and
8 continue willfully to fail, to maintain accurate, complete, and readily available records, in violation
9 of California Labor Code §1174 and IWC Wage Order 5-2001 §7.

10 188. In addition, Defendants have failed and continue to fail to maintain required records
11 that accurately reflect the actual time and hours worked by Plaintiffs and Class Members and the
12 regular and overtime rates of pay associated with these hours worked.

13 189. Plaintiffs and Class Members have suffered and will continue to suffer actual
14 economic harm resulting from these recordkeeping violations, as they have been, and will continue
15 to be, precluded from accurately monitoring the wages to which they are entitled, have been
16 required to retain counsel and others to evaluate and calculate unpaid wages, and have suffered
17 delays in receiving the wages and interest that are due and owing to them. Defendants' ongoing
18 violations of these mandatory recordkeeping laws have caused, and will continue to cause,
19 irreparable harm to Plaintiffs and Class Members, among other reasons because as long as
20 Defendants fail to maintain the required records, Plaintiffs and Class Members will be unable to
21 determine or demonstrate the precise number of hours actually worked, or the wages and penalties
22 owed to them for the hours that Defendants have required, suffered or permitted them to work.

23 190. By willfully failing to maintain the records required by California Labor Code
24 § 1174(c) or the accurate and complete records required by §1174(d), Defendants are also liable for
25 a civil penalty of five hundred dollars for each violation under §1174.5.

26 191. California Labor Code §1194.5 authorizes issuance of and injunction where an
27 employer has willfully violated laws governing wages, hours, or working conditions. Plaintiffs and
28 current employee Class Members are entitled to injunctive relief under the governing legal

standards, and are entitled to an order requiring Defendants to provide Plaintiffs and Class Members all of the information required by California Labor Code §1174 and IWC Wage Order 5-2001.

SEVENTH CLAIM FOR RELIEF

Failure to Furnish Accurate Itemized Wage Statements

[Cal. Labor Code §§204, 226; IWC Wage Order No. 5-2001, §7]

(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class

Against All Defendants)

192. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by reference all previous paragraphs.

193. California Labor Code §226(a) requires employers semimonthly or at time of paying wages to provide to their employees detailed wage and hour information including total hours worked, applicable hourly rates, and deductions. IWC Wage Order 5-2001 §7(B) requires employers semimonthly or at the time of each payment of wages to furnish to each employee an itemized statement in writing showing the following information: all deductions; the inclusive dates of the period for which the employee is paid; the name of the employee or the employee's social security number; and the name of the employer. California Labor Code §204(b)(2) requires that if an employee works in excess of the employee's normal work period in one pay period and the employer pays for those hours in the following pay period, the hours in excess of the employee's normal work period in the current pay period must be itemized as corrections on the paystub for the next regular pay period, and the paystub containing those corrections must state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked. These required disclosures of information are essential to enable employees to determine whether they have been paid in compliance with the law and to determine the identity of all employers who are responsible for any payments that remain due.

194. California Labor Code §226(e) provides that an employee who suffers injury as a result of a knowing and intentional failure by an employer to comply with §226(a) may recover the greater of actual damages or the civil penalties designated by statute of \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period up

1 to an aggregate penalty of \$4,000.

2 195. California Labor Code §226.3 provides that any employer who violates §226(a) shall
3 further be subject to a civil penalty of \$250 per employee per violation in an initial citation and
4 \$1,000 per employee for each violation in a subsequent citation for which the employer fails to
5 provide the employee a wage deduction statement or fails to keep the records required in §226(a).

6 196. California Labor Code §1198 makes employment of an employee under conditions
7 the IWC prohibits unlawful.

8 197. Pursuant to Defendants' unlawful policies and practices alleged herein, Defendants
9 have knowingly and intentionally failed to furnish Plaintiffs and Class Members with the
10 information required by California Labor Code §226(a) and IWC Wage Order 5-2001 §7(B),
11 including but not limited to the legally mandated disclosures of total hours worked, hourly rates,
12 identity of all joint employers, and an itemization of all deductions taken. This failure has injured,
13 continues to injure, and was intended to injure Plaintiffs and Class Members by, among other
14 things, enabling Defendants to avoid paying these workers all wages due without detection of
15 wrongdoing; creating confusion among these workers over whether they had received all wages due
16 and owing; making it difficult and expensive for these workers to reconstruct pay records and
17 accurate records of all hours worked; forcing these workers to make mathematical computations to
18 analyze whether the wages paid compensated them for all hours worked; requiring these workers to
19 retain attorneys and others to help them determine the fact, scope, and extent of Defendants'
20 wrongful conduct; and causing delay in these workers recovering their full back pay and interest.

21 198. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
22 Plaintiffs and Class Members have sustained economic damages, including but not limited to
23 unpaid wages and lost interest, in an amount to be established at trial, and are entitled to recover
24 such economic and statutory damages and penalties and other appropriate relief from Defendants'
25 violations of the California Labor Code and IWC Wage Order 5-2001.

26 199. California Labor Code §226(h) authorizes courts to issue injunctive relief to remedy
27 violations of §226(a). Plaintiffs and Class Members are entitled to injunctive relief under the
28 governing legal standards, and are entitled to an order requiring Defendants: (a) to immediately

1 begin providing to Plaintiffs and current employee Class Members itemized wage statements
2 containing all of the information required to be disclosed by California Labor Code §226(a); and (b)
3 to immediately provide to all Plaintiffs and Class Members the information required to be disclosed
4 by California Labor Code §226(a), dating back to those employees' beginning of employment or to
5 the start of the applicable limitations period, whichever is further back in time.

6 **EIGHTH CLAIM FOR RELIEF**

7 **Failure to Indemnify Employees for Necessary Expenses**

8 **[Cal. Labor Code §§221, 450, 1198, 2802, 1194.5; IWC Wage Order No. 5 2001, §8]**

9 **(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class**

10 **Against All Defendants)**

11 200. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by
12 reference all previous paragraphs.

13 201. California Labor Code §2802(a) requires an employer to indemnify an employee for
14 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge
15 of his or her duties, or of his or her obedience to the directions of the employer. California Labor
16 Code §221 makes it unlawful for employers to collect or receive from an employee any part of
17 wages paid. California Labor Code §450 makes it unlawful for an employer to compel or coerce
18 employees to purchase anything of value from the employer. IWC Wage Order 5-2001 §8 provides
19 that the only circumstances under which an employer may take a deduction from an employee's
20 wages due to cash shortage, breakage, or loss of equipment is if the employer can show that the
21 shortage, breakage, or loss was the result of the employee's gross negligence or dishonest or willful
22 act.

23 202. During the Class Period, McDonald's has knowingly and willfully failed and
24 continues to fail to indemnify Plaintiffs and Class Members for all business expenses and/or losses
25 incurred in direct consequence of the discharge of their duties while working under the direction of
26 McDonald's, Defendants have also deducted cash shortages from the Plaintiffs' and Class
27 Members' wages without being able to show that such shortages were the result of the employee's
28 gross negligence or dishonest or willful act. These mandatory payments and deductions constitute

1 an unlawful mechanism by which Defendants obtain unlawful deductions or kickbacks from the
2 wages they lawfully owe to Plaintiffs and Class Members. By requiring Plaintiffs and Class
3 Members to pay for work-related expenses without reimbursement, and by deducting cash shortages
4 from the pay of Plaintiffs and Class Members when they worked at cash registers without showing
5 the shortage was the result of the employee's gross negligence or dishonest or willful act,
6 McDonald's, pursuant to its policy and practice, has willfully violated, and on information and
7 belief continues to violate, California Labor Code §§221, 450, and 2802 and IWC Wage Order
8 5-2001 §8 .

9 203. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
10 Plaintiffs and Class Members have sustained economic damages, including but not limited to
11 unpaid wages, unreimbursed expenses, and lost interest, in an amount to be established at trial, and
12 are entitled to recover economic and statutory damages and penalties and other appropriate relief
13 from Defendants' violations of the California Labor Code and IWC Wage Order 5-2001.

14 204. California Labor Code §1194.5 authorizes injunctions where an employer has
15 willfully violated laws governing wages, hours, or working conditions. Plaintiffs and current
16 employee Class Members, who are low-wage workers for whom Defendants' failure to reimburse
17 necessary business expenses creates substantial hardship, are entitled to preliminary and permanent
18 injunctive relief under the governing legal standards, and are entitled to an order requiring
19 Defendants to reimburse all necessary expenses incurred by employees in the discharge of their
20 duties and to refrain from deducting cash shortages from employees' wages unless they can show
21 the loss was the result of the employee's gross negligence or dishonest or willful act.

22 **NINTH CLAIM FOR RELIEF**

23 **Negligence**

24 **(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class**

25 **Against Defendant McDonald's)**

26 205. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by
27 reference all previous paragraphs.

28 206. McDonald's has owed and continues to owe a duty to Plaintiffs and Class Members,

1 both as their joint employer and as an entity that benefits directly from their services, not to subject
2 those individuals to the foreseeable harms as alleged herein that would reasonably result from
3 McDonald's failure to exercise due care in its contracting and supervision of Haynes Partnership as
4 the entity it chose to operate the Restaurants as its franchisee. As the owner of the McDonald's
5 trademark and operator of the multinational McDonald's company and as a franchisor with
6 unusually high systems of control over its franchisees, who operate on term-limited and conditional
7 contracts, McDonald's had and continues to have the contractual, actual, and other authority to
8 ensure that its franchisees comply with all state labor and employment laws and to ensure that
9 Plaintiffs' and Class Members' legal rights are fully protected while working in McDonald's
10 restaurants, serving McDonald's food and selling McDonald's products, under McDonald's direct
11 and indirect supervision.

12 207. On information and belief, at all relevant times, McDonald's has retained,
13 supervised, and controlled Haynes Partnership as its agent and contractor for the purpose of
14 operating the Restaurants.

15 208. McDonald's violated its duty to Plaintiffs and Class Members by failing to exercise
16 due care in the retention, supervision, and/or control of Haynes Partnership. Given a long history of
17 employment law violations at the Restaurants, and that the terms of the McDonald's-Haynes
18 Partnership contract and attendant operating requirements and pressures created powerful incentives
19 for Haynes Partnership to violate the labor and employment law rights of Plaintiffs and Class
20 Members, and based on McDonald's close monitoring and control over the Restaurant's operations,
21 McDonald's knew or should have known when it retained, supervised, and controlled Haynes
22 Partnership as the franchisee of the Restaurants, that it was creating an undue risk of harm to
23 Plaintiffs and Class Members.

24 209. As a direct and proximate result of McDonald's conduct as alleged in this
25 Complaint, Plaintiffs and Class Members have been harmed, including but not limited to suffering
26 lost wages and other benefits in amounts to be proven at trial.

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1 alleged herein: California Labor Code §§204, 206, 221, 223, 226, 226.7, 450, 510, 512, 1174,
2 1182.12, 1194, 1195.5, 1197-99, and 2802, and IWC Wage Order 5-2001 §§3, 4, 7, 8, 11, and 12.
3 Each of these violations entitles Plaintiffs, as private attorneys general, to recover the applicable
4 statutory civil penalties on their own behalf, on behalf of all aggrieved employees, and on behalf of
5 the general public.

6 214. California Labor Code §2699(a), which is part of PAGA, provides in pertinent part:

7 Notwithstanding any other provision of law, any provision of this code that
8 provides for a civil penalty to be assessed and collected by the Labor and Workforce
9 Development Agency or any of its departments, divisions, commissions, boards,
10 agencies, or employees, for a violation of this code, may, as an alternative, be
11 recovered through a civil action brought by an aggrieved employee on behalf of
12 himself or herself and other current or former employees pursuant to the procedures
13 specified in Section 2699.3.

14 215. California Labor Code §2699(f), which is part of PAGA, provides in pertinent part:

15 For all provisions of this code except those for which a civil penalty is
16 specifically provided, there is established a civil penalty for a violation of these
17 provisions, as follows: . . .

18 (2) If, at the time of the alleged violation, the person employs one or
19 more employees, the civil penalty is one hundred dollars (\$100) for each
20 aggrieved employee per pay period for the initial violation and two hundred
21 dollars (\$200) for each aggrieved employee per pay period for each
22 subsequent violation.

23 216. Plaintiffs are entitled to civil penalties, to be paid by Defendants and allocated as
24 PAGA requires, pursuant to California Labor Code §2699(a) for Defendants' violations of the
25 California Labor Code and IWC Wage Orders for which violations a civil penalty is already
26 specifically provided by law; and Plaintiffs are entitled to civil penalties, to be paid by Defendants
27 and allocated as PAGA requires, pursuant to California Labor Code §2699(f) for Defendants'
28

1 violations of the California Labor Code and IWC Wage Orders for which violations a civil penalty
2 is not already specifically provided.

3 217. Plaintiffs are in the process of exhausting their administrative remedies as required
4 by California Labor Code §2699.3. Plaintiffs will amend their Complaint to allege such exhaustion
5 after the exhaustion process is complete.

6 218. Under PAGA, Plaintiffs and the State of California are entitled to recover the
7 maximum civil penalties permitted by law for the violations of the California Labor Code and Wage
8 Order 5-2001 that are alleged in this Complaint.

9 **ELEVENTH CLAIM FOR RELIEF**

10 **Unfair and Unlawful Business Practices**

11 **[Cal. Bus. & Prof. Code §17200 et seq.]**

12 **(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class**

13 **Against All Defendants)**

14 219. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by
15 reference all previous paragraphs.

16 220. Defendants have engaged in unfair and unlawful business practices in violation of
17 California Business & Professions Code §17200 et seq. by engaging in the unlawful conduct alleged
18 above, including but not limited to: failing to pay all wages when due and secretly paying a lower
19 wage than purported; failing to pay the overtime premiums required by state law; failing to pay the
20 minimum wage required by state law; failing to provide workers with all meal periods and paid rest
21 breaks to which they are entitled; failing to pay workers an additional hour's pay for all days in
22 which they were not provided a full and timely meal or rest break as required by state law; failing to
23 provide employees information required by California Labor Code §§204, 226(a), and 1174 and
24 Wage Order 5-2001; concealing from workers material information concerning Defendants' joint
25 employer status and the nature and extent of the conspiracy in which Defendants are engaged;
26 failing to indemnify workers for necessary expenses they incurred in the discharge of their duties;
27 and negligently retaining, supervising, and/or controlling agents and/or contractors acting on their
28 behalf.

221. Plaintiffs are informed and believe, and based upon such information and belief, allege that by engaging in the unfair and unlawful business practices complained of above, Defendants were able to lower their labor costs and thereby to obtain a competitive advantage over law-abiding employers with which they compete, in violation of California Business & Professions Code §17200 et seq. and California Labor Code §90.5(a), which sets forth the public policy of California to vigorously enforce minimum labor standards to ensure that employees are not required or permitted to work under substandard and unlawful conditions and to protect law-abiding employers and their employees from competitors that lower their costs by failing to comply with minimum labor standards.

222. As a direct and proximate result of Defendants' unfair and unlawful conduct as alleged herein, Plaintiffs and Class Members have sustained injury and damages, including unpaid wages and lost interest, in an amount to be established at trial. Plaintiffs and Class Members seek restitution of all unpaid wages owed to Plaintiffs and Class Members, disgorgement of all profits that Defendants have enjoyed as a result of their unfair and unlawful business practices, penalties, and injunctive relief.

TWELFTH CLAIM FOR RELIEF

Declaratory Judgment

[Cal. Code of Civil Procedure §1060 et seq.]

(Brought by All Plaintiffs on behalf of Themselves and the Plaintiff Class

Against All Defendants)

223. Plaintiffs, on behalf of themselves and the plaintiff class, reallege and incorporate by reference all previous paragraphs.

224. An actual controversy has arisen and now exists between the parties relating to the legal rights and duties of the parties as set forth above, for which Plaintiffs desire a declaration of rights and other relief available pursuant to the California Declaratory Judgment Act, California Code of Civil Procedure §1060 et seq.

225. A declaratory judgment is necessary and proper in that Plaintiffs contend that

1 Defendants have committed and continue to commit the violations set forth above and Defendants,
2 on information and belief, will deny that they have done so and/or that they will continue to do so.

3 **THIRTEENTH CLAIM FOR RELIEF**

4 **Retaliation**

5 **[Cal. Labor Code §98.6]**

6 **(Brought by Plaintiff Salazar Against All Defendants)**

7 226. Plaintiff Salazar realleges and incorporates by reference all previous paragraphs, with
8 exception of the allegations in paragraphs 138-145.

9 227. California Labor Code §98.6(a) prohibits employers from discharging or otherwise
10 discriminating against any employee “because of the exercise by the employee . . . on behalf of
11 himself, herself, or others of any rights afforded him or her.”

12 228. Defendants violated California Labor Code §98.6(a) by discriminating against
13 Plaintiff Salazar by, among other things, reducing her hours, changing her hours to times she was
14 not available to work, denying requested days off, and harassing her, because she complained to her
15 managers that she was not paid for all hours she worked and/or because she engaged in other
16 protected activity. Plaintiff Salazar’s complaint involved the exercise of her rights protected by
17 California Labor Code §§204, 226(a), 510, 1174 and IWC Wage Order 5-2001 §§3 and 7, including
18 but not limited to the right to be compensated in accordance with state law and to receive and/or
19 request complete and accurate information regarding her pay, hourly wage, overtime pay, and hours
20 worked.

21 229. Plaintiff Salazar seeks damages, pursuant to Labor Code §98.6(b), which provides
22 that “[a]ny employee who is . . . in any . . . manner discriminated against in the terms and conditions
23 of his or her employment” for exercising his or her rights is entitled to reimbursement of lost wages
24 and work benefits caused by those acts of the employer.

25 230. As a direct and proximate result of Defendants’ unlawful conduct as alleged herein,
26 Plaintiff Salazar has sustained economic damages, including loss of wages and other work benefits
27 and lost interest, in an amount to be established at trial.
28

231. Plaintiffs are informed and believe, and thereon allege, that the unlawful conduct of Defendants and/or their agents, supervisors, managers, and/or employees, as described herein, was malicious, fraudulent, and/or oppressive, and was done with a willful and conscious disregard for the rights of Plaintiff Salazar and for the harmful consequences of Defendants' actions; and, further, that Defendants and/or their agents, employees, managers or supervisors authorized, condoned, and ratified the unlawful conduct of the officers, supervisors, managers, and/or other employees of Defendants who retaliated against Plaintiff Salazar. Consequently, Plaintiff Salazar is entitled to punitive damages against Defendants, in amounts according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

1. Certification of this action as a class action on behalf of the proposed class under California Code of Civil Procedure §382;
2. Designation of Plaintiffs as representatives of the plaintiff class;
3. A temporary, preliminary, and permanent injunction requiring Defendants to pay Plaintiffs and Class Members all wages, including but not limited overtime and minimum wages, for all hours worked when due, and requiring Defendants to keep accurate track of all time Plaintiffs and Class Members work;
4. A temporary, preliminary, and permanent injunction requiring Defendants to provide Plaintiffs and Class Members all legally required meal periods and rest breaks and to pay an additional hour's pay for every day that a meal period or rest break is missed, untimely, or shortened, and requiring Defendants to keep accurate track of the time Plaintiffs and Class Members are provided and receive meal periods and rest breaks;
5. A temporary, preliminary, and permanent injunction requiring Defendants to provide Plaintiffs and Class Members all of the information required by California Labor Code §§226(a) and 1174 and IWC Wage Order 5-2001 §7;
6. A temporary, preliminary, and permanent injunction requiring Defendants to reimburse all necessary expenses incurred by Plaintiffs and Class Members in the discharge of their duties and to refrain from deducting cash shortages from Plaintiffs' and Class Members' wages

1 unless they can show the loss was the result of the employee's gross negligence or dishonest or
2 willful act;

3 7. A permanent injunction prohibiting Defendants from violating the California Labor
4 Code and IWC Wage Order 5-2001, and committing unlawful and unfair business practices
5 proscribed by California Business & Professions Code §17200 et seq.;

6 8. A declaratory judgment that Defendants have knowingly and intentionally violated
7 the following provisions of law:

- 8 a. California Labor Code §§204, 206, 223, and 1195.5 by failing to pay full wages
9 when due for all hours worked;
- 10 b. California Labor Code §§510 and 1194(a) and IWC Wage Order 5-2001 §3, by
11 failing to provide premium wages for work in excess of eight hours per workday or
12 40 hours per workweek;
- 13 c. California Labor Code §§1182.12, 1194(a), 1194.2(a), and 1197 and IWC Wage
14 Order 5-2001 §4, by failing to pay at least the California minimum wage;
- 15 d. California Labor Code §§226.7 and 512 and IWC Order 5-2001 §§11 and 12, by
16 failing to provide all required meal periods and rest breaks and failing to compensate
17 employees for missed, untimely, or shortened meal periods and rest breaks;
- 18 e. California Labor Code §1174 and IWC Wage Order No. 9-2001 §7, by failing to
19 maintain and provide employees with access to complete and accurate records;
- 20 f. California Labor Code §226, by failing to provide the information required
21 semimonthly or with each payment of wages;
- 22 g. California Labor Code §§221, 450, and 2802 and IWC Wage Order No. 5 2001, §8,
23 by failing to indemnify workers for necessary expenses incurred in the discharge of
24 their duties;
- 25 h. California Business and Professions Code §§17200-08, by violating the provisions
26 set forth in subparagraphs (a)-(g); and
- 27 i. California Labor Code §98.6 for retaliating against Plaintiff Salazar;

1 9. An award of restitution or damages in the amount of unpaid wages, overtime,
2 minimum wage compensation (plus liquidated damages pursuant to California Labor Code
3 §1194.2), and unlawful deductions from wages (or liquidated damages pursuant to California Labor
4 Code § 226(e), whichever is greater), including interest thereon, subject to proof at trial;

5 10. An award of statutory penalties pursuant to California Labor Code §§226.3, 558,
6 1174.5, 1197.1, and 2698-99, and California Business & Professions Code §17206, subject to proof
7 at trial;

8 11. An award of penalties for failure to pay full wages when due pursuant to California
9 Labor Code §§206, 210, and 225.5 subject to proof at trial;

10 12. An award of restitution of all amounts owed in unpaid wages, overtime, minimum
11 wage compensation, and unlawful deductions from wages, and interest thereon, in an amount
12 according to proof at trial, pursuant to California Business & Professions Code §17203;

13 13. Disgorgement of profits and all other appropriate equitable relief authorized by
14 California Business & Professions Code §17203;

15 14. Punitive damages for the malicious retaliation against Plaintiff Salazar;

16 15. Prejudgment and postjudgment interest on all sums awarded;

17 16. Attorneys' fees and litigation expenses in an amount the Court determines to be
18 reasonable, pursuant to Labor Code §§216(b), 218.5, 226(h), 1194(a), 2699(g)(1), and 2802(c), and
19 California Code of Civil Procedure §1021.5, and such other provisions as may be applicable;

20 17. Costs of suit; and

21 18. Such other and further relief as is equitable, just, and proper.

22
23 Dated: March 12, 2014

Respectfully submitted,

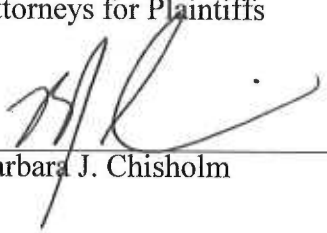
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25 MICHAEL RUBIN
26 BARBARA J. CHISHOLM
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Attorneys for Plaintiffs

By:


Barbara J. Chisholm

1 DEMAND FOR JURY TRIAL

2 Plaintiffs, on behalf of themselves and similarly situated McDonald's employees, hereby
3 demand a jury trial on all causes of action and claims with respect to which they have a right to jury
4 trial.

5 Dated: March 12, 2014

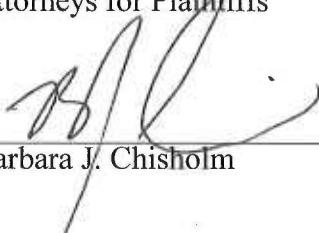
6 Respectfully submitted,

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14 Attorneys for Plaintiffs

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